
SUBSTITUTE SENATE BILL 5154

State of Washington

68th Legislature

2023 Regular Session

By Senate Environment, Energy & Technology (originally sponsored by Senators Rolfes, Nguyen, Cleveland, Frame, Hasegawa, Keiser, Kuderer, Lias, Lovelett, Nobles, Pedersen, Salomon, Stanford, Wellman, and C. Wilson)

READ FIRST TIME 02/07/23.

1 AN ACT Relating to improving Washington's solid waste management
2 outcomes; amending RCW 70A.245.010, 70A.245.020, 70A.245.030,
3 70A.245.040, 70A.245.090, 70A.245.100, 70A.245.120, 70A.245.060,
4 70A.205.005, 70A.205.010, 70A.205.045, 81.77.030, 81.77.040,
5 81.77.160, 81.77.185, 43.21B.110, and 43.21B.300; adding a new
6 section to chapter 70A.222 RCW; adding a new section to chapter
7 70A.350 RCW; adding a new section to chapter 70A.245 RCW; adding a
8 new section to chapter 70A.230 RCW; adding a new section to chapter
9 70A.340 RCW; adding a new section to chapter 70A.455 RCW; adding a
10 new section to chapter 69.50 RCW; adding new chapters to Title 70A
11 RCW; creating a new section; repealing RCW 70A.245.110; prescribing
12 penalties; and providing an expiration date.

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

14 **Part One**
15 **Providing for Producer Responsibility in the Management of Packaging**
16 **and Paper Products**

17 NEW SECTION. **Sec. 101.** FINDINGS—INTENT. (1) The legislature
18 finds that, as of 2023, Washington's statewide waste recovery rate,
19 which seeks to preserve public health, safety, and welfare, and
20 conserve energy and natural resources, has been on a declining trend

1 since 2011 and that Washington is not meeting the statewide goal of
2 50 percent recycling established in 1989.

3 (2) The legislature finds that packaging designs and materials
4 have changed and the way Washington's residents use, consume, and
5 manage materials when no longer wanted has also changed significantly
6 in recent years. These shifts have created unintended consequences,
7 such as the deterioration of ecosystems regionally and worldwide, as
8 well as increased levels of pollution and greenhouse gas emissions
9 that contribute to global climate change, and reductions in human
10 well-being, especially for the most vulnerable populations.

11 (3) The legislature finds that convenient and environmentally
12 sound extended producer responsibility programs that include
13 collecting, transporting, reusing, and recycling, or the proper end-
14 of-life management of unwanted products help protect Washington's
15 environment and the health of state residents. In general, the
16 state's waste management hierarchy establishes that products should
17 be managed in a manner where a priority is placed on prevention,
18 waste reduction, source reduction, reuse, and recycling over energy
19 recovery and landfill disposal.

20 (4) The legislature finds that many residents, particularly those
21 who live in rural areas and in multifamily residences, do not have
22 access to convenient or affordable curbside recycling, and must rely
23 on taking recyclables to drop box locations, and that extended
24 producer responsibility programs could make curbside recycling
25 available and affordable for most people in the state.

26 (5) The legislature also finds that the department of ecology was
27 directed, through an independent consultant, to study how plastic
28 packaging is managed in the state, assess various policy options, and
29 that the study recommendations included establishing an extended
30 producer responsibility policy for all consumer packaging and paper
31 products with a framework that makes producers responsible for
32 achieving specific management and environmental outcomes for the
33 packaging and paper products they supply into Washington state, as
34 well as recommending that postconsumer recycled content requirements
35 and a deposit return system for beverage containers be established.

36 (6) In addition, the legislature finds extended producer
37 responsibility policies designed to cover all consumer packaging and
38 paper materials offer the potential for greater economies of scale
39 and operational efficiencies than could be achieved under a policy
40 applied only to a subset of materials.

1 (7) It is the intent of the legislature to require that extended
2 producer responsibility programs, including the achievement of
3 recycling rates, are implemented by and for producers of consumer
4 packaging and paper products in a manner that involves producers in
5 material management from design concept to end-of-life. These
6 programs incentivize innovation and research to develop more
7 efficient recycling technologies and minimize environmental impacts
8 of the packaging and paper products.

9 (8) It is also intended that these programs be responsibly
10 managed, so that covered products are handled and accounted for from
11 the point of collection through the final destination in a way that
12 benefits the environment and minimizes risks to public health and
13 worker health and safety. It is intended that these programs build
14 and expand on the existing waste and recycling system's
15 infrastructure and reliance on the role of local governments and the
16 utilities and transportation commission in solid waste management.

17 (9) It is also the intent of the legislature that producers
18 increase the use of postconsumer recycled content in their products,
19 to achieve the goals in RCW 70A.520.010(2), in order to create strong
20 markets for recycled materials and achieve environmental benefits.

21 (10) It is the intent of the legislature that, through design and
22 innovation, producers will reduce the use and climate impact of
23 consumer packaging and paper products, increase the use of
24 postconsumer recycled content, and make all packaging reusable,
25 recyclable, or compostable.

26 (11) Finally, it is the intent of the legislature that Washington
27 should maintain the successful public-private partnership between
28 state, local government, and solid waste and recycling service
29 providers. The legislature does not intend to diminish or displace
30 the primary role of the utilities and transportation commission and
31 local governments in regulating or contracting directly with service
32 providers for the curbside collection of residential recyclables.
33 Local governments maintain their existing authority to collect,
34 contract for collection with solid waste and recycling service
35 providers, or defer to solid waste collection services regulated by
36 the utilities and transportation commission.

37 NEW SECTION. **Sec. 102.** DEFINITIONS. The definitions in this
38 section apply throughout this chapter unless the context clearly
39 requires otherwise.

- 1 (1) "Advisory council" means the advisory council created in
2 section 120 of this act.
- 3 (2) "Alternative recycling process" means a recycling process
4 that occurs other than through purely mechanical means.
- 5 (3) "Aluminum" means a covered product made of the chemical
6 element aluminum that forms a silvery white to dull gray, nonmagnetic
7 metal.
- 8 (4) "Brand" means a name, symbol, word, logo, or mark that
9 identifies a product and attributes the product and its components,
10 including packaging, to the brand owner of the product as the
11 producer.
- 12 (5) "Brand owner" means a person who owns or licenses a brand or
13 who otherwise has rights to market a product under the brand, whether
14 or not the brand trademark is registered.
- 15 (6) "Compostable" means a product that is capable of undergoing
16 aerobic biological decomposition in a composting system, that results
17 in the material being broken down primarily into carbon dioxide,
18 water, inorganic compounds, and biomass, and is in compliance with
19 the requirements for a product labeled as compostable under chapter
20 70A.455 RCW.
- 21 (7) "Composting system" means a system meeting the requirements
22 of chapter 70A.205 RCW applicable to facilities that treat solid
23 waste for composting.
- 24 (8) "Consumer" means a person who purchases or receives a covered
25 product and is the intended end user or recipient of the covered
26 product.
- 27 (9) "Contamination" means:
28 (a) The presence of materials in a given collected material
29 stream that are not on the list of materials designated for
30 collection in that material stream; or
31 (b) The presence of materials in a given recycled material
32 delivered as a feedstock or commodity that are not specified or
33 accepted as a component of the feedstock or commodity.
- 34 (10) "Covered product" means packaging and paper products sold or
35 supplied to consumers for personal, noncommercial use.
- 36 (11) "Department" means the department of ecology.
- 37 (12) "Designated for collection" means the covered products that
38 are included in the material categories listed in a producer
39 responsibility organization's plan to be collected for reuse or
40 recycling.

1 (13) "Eliminate" or "elimination," with respect to source
2 reduction, means the removal of a plastic component from a covered
3 material.

4 (14) "Final disposition" means the point at which a covered
5 product:

- 6 (a) Becomes a reused material;
- 7 (b) Becomes a recycled material; or
- 8 (c) Is delivered to a disposal site, as defined in RCW
9 70A.205.015.

10 (15) "Flexible plastic" means any covered product made of
11 polymers that is flexible in form, including films and multilayer
12 laminates.

13 (16) "Glass" means a covered product made of soda lime glass.

14 (17) "Government entity" means any:

15 (a) County, city, town, or other local government, including any
16 municipal corporation, quasi-municipal corporation, or special
17 purpose district, or any office, department, division, bureau, board,
18 commission, or agency thereof, or other local public agency;

19 (b) State office, department, division, bureau, board,
20 commission, or other state agency;

21 (c) Federally recognized Indian tribe whose traditional lands and
22 territories include parts of Washington; or

23 (d) Federal office, department, division, bureau, board,
24 commission, or other federal agency.

25 (18) "Material category" means a group of covered products
26 defined by the producer responsibility organization that have similar
27 properties such as chemical composition, shape, or other
28 characteristics including, but not limited to:

- 29 (a) Plastic beverage containers;
- 30 (b) Rigid plastic, excluding plastic beverage containers;
- 31 (c) Flexible plastic;
- 32 (d) Paper;
- 33 (e) Aluminum;
- 34 (f) Steel; and
- 35 (g) Glass.

36 (19) "Overburdened communities" means the overburdened
37 communities identified and prioritized by the department under RCW
38 70A.02.050(1)(a).

39 (20)(a) "Packaging" means a material, substance, or object that
40 is:

1 (i) Used to protect, contain, transport, or serve a product;
2 (ii) Sold or supplied to consumers expressly for the purpose of
3 protecting, containing, transporting, or serving products;
4 (iii) Attached to a product or its container for the purpose of
5 marketing or communicating information about the product;
6 (iv) Supplied at the point of sale to facilitate the delivery of
7 the product; or
8 (v) Supplied to or purchased by consumers expressly for the
9 purpose of facilitating food or beverage consumption that is
10 ordinarily discarded by consumers after a single use or short-term
11 use, whether or not it could be reused.

12 (b) "Packaging" does not include:

13 (i) Materials intended to be used for the long-term storage or
14 protection of a durable product, that is intended to transport,
15 protect, or store the product on an ongoing basis, and that can be
16 expected to be usable for that purpose for a period of at least five
17 years;

18 (ii) For purposes of this chapter only, materials used to package
19 pesticide products regulated by the federal insecticide, fungicide,
20 and rodenticide act, 7 U.S.C. Sec. 136 et seq. that are in direct
21 contact with the regulated product. This exemption does not include
22 products regulated by the United States food and drug administration;

23 (iii) Products excluded temporarily under section 128 of this
24 act;

25 (iv) Qualifying beverage containers and container labels and
26 closures, but not secondary or ancillary packaging, subject to the
27 requirements of chapter 70A.--- RCW (the new chapter created in
28 section 603 of this act), upon the receipt by the department of a
29 written notice under section 303 of this act regarding the
30 designation of a distributor responsibility organization to implement
31 a deposit return system under chapter 70A.--- RCW (the new chapter
32 created in section 603 of this act);

33 (v) Liquified petroleum gas containers that are designed to be
34 refilled and reused;

35 (vi) Packaging material that is in direct contact with a product
36 that is regulated as animal biologics, including vaccines, bacterins,
37 antisera, diagnostic kits, and other products of biological origin
38 under the federal virus-serum-toxin act, 21 U.S.C. Sec. 151 et seq.,
39 as amended; and

1 (vii) Packaging related to containers of architectural paint that
2 has been collected by a stewardship organization under the program
3 established in chapter 70A.515 RCW.

4 (21) "Paper" means packaging or paper products made of paper
5 fiber, regardless of its cellulosic fiber source, which may include,
6 but is not limited to: Wood, wheat, rice, cotton, bananas,
7 eucalyptus, bamboo, hemp, and sugar cane or bagasse.

8 (22) "Paper product" means paper sold or supplied including, but
9 not limited to, flyers, brochures, booklets, catalogs, magazines,
10 copy paper, printing paper, and all other paper materials except for:
11 (a) Bound books; (b) conservation grade and archival grade paper; (c)
12 newspapers; (d) paper designed for use in building construction; and
13 (e) paper products that, by any common and foreseeable use, could
14 reasonably be anticipated to become unsafe or unsanitary to handle.

15 (23) "Plan" means description of the approach and activities
16 developed by a producer responsibility organization to fulfill the
17 requirements and to carry out the responsibilities of producers under
18 this chapter.

19 (24) "Postconsumer recycled content" has the same meaning as
20 defined in section 201 of this act.

21 (25)(a) "Producer" means the following person responsible for
22 compliance with requirements under this chapter for a covered product
23 sold, offered for sale, or distributed in or into this state:

24 (i) For products sold in or with packaging at a physical retail
25 location in this state:

26 (A) If the product is sold in or with packaging under the brand
27 of the product manufacturer or is sold in packaging that lacks
28 identification of a brand, the producer of the packaging is the
29 person that manufactures the product;

30 (B) If the product is sold under a retail brand, the producer is
31 the retail brand owner;

32 (C) If the product is manufactured by a person other than the
33 brand owner, the producer of the packaging is the person that is the
34 licensee of a brand or trademark under which a packaged item is used
35 in a commercial enterprise, sold, offered for sale, or distributed in
36 or into this state, whether or not the trademark is registered in
37 this state; or

38 (D) If there is no person described in (a)(i)(A), (B), or (C) of
39 this subsection within the United States, the producer of the
40 packaging is the person who imports the packaged product into the

1 United States for use in a commercial enterprise that sells, offers
2 for sale, or distributes the product in this state.

3 (ii) For products sold or distributed in packaging in or into
4 this state via e-commerce, remote sale, or distribution:

5 (A) For packaging used to directly protect or contain the
6 product, the producer of packaging is the same as the producer for
7 purposes of (a)(i) of this subsection; and

8 (B) For packaging used to ship the product to a consumer, the
9 producer of the packaging is the person that packages and ships the
10 product to the consumer.

11 (iii) For packaging that is a covered product and is not included
12 in (a)(i) and (ii) of this subsection, the producer of the packaging
13 is the person that first distributes the packaged product in or into
14 this state.

15 (iv) For paper products that are magazines, newspapers, catalogs,
16 telephone directories, or similar publications, the producer is the
17 publisher.

18 (v) For paper products not described in (a)(iv) of this
19 subsection, the producer is:

20 (A) The person that manufactures the paper product under the
21 manufacturer's own brand;

22 (B) If the paper product is manufactured by a person other than
23 the brand owner, the producer of the paper product is the person that
24 is the owner or licensee of a brand or trademark under which the
25 paper product is used in a commercial enterprise, sold, offered for
26 sale, or distributed in or into this state, whether or not the
27 trademark is registered in this state; or

28 (C) If there is no person described in (a)(v)(A) or (B) of this
29 subsection within the United States, the producer of the paper
30 product is the person that imports the paper product into the United
31 States for use in a commercial enterprise that sells, offers for
32 sale, or distributes the paper product in this state.

33 (vi) A person who would be considered a "producer" of a covered
34 product sold, offered for sale, or distributed in or into this state,
35 as defined in (a)(i) through (v) of this subsection, can designate
36 another responsible producer for that covered product if another
37 person agrees to accept responsibility and has registered as the
38 producer responsible for that covered product under this chapter.

39 (b) "Producer" does not include:

1 (i) Government agencies, municipalities, or other political
2 subdivisions of the state;

3 (ii) Registered 501(c)(3) charitable organizations and 501(c)(4)
4 social welfare organizations; or

5 (iii) De minimis producers that annually sell, offer for sale,
6 distribute, or import:

7 (A) In Washington state less than one ton of covered products;
8 and

9 (B) That have a global gross revenue of less than \$5,000,000 for
10 the most recent fiscal year of the organization.

11 (26) "Producer responsibility organization" means:

12 (a) A nonprofit organization that qualifies for a tax exemption
13 under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code
14 and is designated by a producer or group of producers to develop and
15 carry out the activities required of producers by this chapter;

16 (b) Until January 15, 2026, an organization that has applied for
17 a tax exemption under 26 U.S.C. Sec. 501(c)(3) of the federal
18 internal revenue code and is designated by a producer or group of
19 producers to develop and carry out the activities required of
20 producers under this chapter;

21 (c) A producer that registers with the department as a producer
22 responsibility organization; or

23 (d) An organization as defined by rule by the department
24 consistent with section 104(6) of this act.

25 (27) "Program" means the activities conducted to implement an
26 approved producer responsibility organization plan.

27 (28)(a) "Public place" is an indoor or outdoor location open to
28 and generally used by the public and to which the public is permitted
29 to have access including, but not limited to, streets, sidewalks,
30 plazas, town squares, public parks, beaches, forests, or other public
31 land open for recreation or other uses, and transportation facilities
32 such as bus and train stations, airports, and ferry terminals.

33 (b) "Public place" does not include a retail establishment or
34 industrial, commercial, or privately owned property that is not
35 required to be accessible to the public.

36 (29) "Recyclable" means a covered product that is collected,
37 separated, and reprocessed into a recycled material, and that does
38 not contain harmful chemical, physical, biological, or radiological
39 substances that will pose a threat to human health or the environment
40 for its intended or likely manner of use.

1 (30) (a) "Recycled material" means material derived from covered
2 products that is reprocessed into products or delivered as feedstocks
3 or commodities to a responsible end market for use in the production
4 of new products whether for the original or another purpose.

5 (b) "Recycled material" does not include energy recovery and the
6 reprocessing of materials that are to be used as fuels or landfill
7 cover.

8 (31) "Responsible end market" means a materials market in which
9 the recycling of materials and the disposal of contaminants is
10 conducted in a way that:

11 (a) Minimizes impacts to the environment; and

12 (b) Minimizes risks to public health and worker health and
13 safety.

14 (32) "Responsible management" means the handling, tracking, and
15 disposition of covered products from the point of collection through
16 the final destination of the collected material in a way that
17 minimizes impacts to the environment and minimizes risks to public
18 health and worker health and safety.

19 (33) "Responsible producer" means a producer that is not a de
20 minimis producer.

21 (34) "Retail establishment" includes any person, corporation,
22 partnership, business, facility, vendor, organization, or individual
23 that sells or provides merchandise, goods, or materials directly to a
24 customer.

25 (35) "Reusable" means:

26 (a) For packaging that is reused or refilled by a producer, the
27 packaging satisfies all of the following:

28 (i) Explicitly designed and marketed to be utilized multiple
29 times for the same product, or for another purposeful packaging use
30 in a supply chain;

31 (ii) Designed for durability to function properly in its original
32 condition for multiple cycles of reuse or refill;

33 (iii) Supported by adequate infrastructure to ensure the
34 packaging can be conveniently and safely reused or refilled for
35 multiple cycles; and

36 (iv) Repeatedly recovered, inspected, and reissued into the
37 supply chain for reuse or refill for multiple cycles.

38 (b) For packaging that is reused or refilled by a consumer, the
39 packaging satisfies all of the following:

1 (i) Explicitly designed and marketed to be utilized multiple
2 times for the same product;

3 (ii) Designed for durability to function properly in its original
4 condition for utilization in multiple cycles of reuse or refill; and

5 (iii) Supported by adequate and convenient availability of
6 services or infrastructure to ensure the packaging can be
7 conveniently and safely reused or refilled by the consumer multiple
8 times.

9 (36) "Reused material" means material that is collected after use
10 and reused for its original or similar purpose or function.

11 (37) "Rigid plastic" means any covered product made of polymers
12 that is rigid or semirigid in form, including foams.

13 (38) "Socially just management" means practices that:

14 (a) Provide equitable access to and benefits from services,
15 regardless of race, income, socioeconomic status, health, and other
16 population vulnerability or sensitivity characteristics;

17 (b) Prevent or, if not preventable, minimize environmental harms
18 or risks; and

19 (c) Prevent or, if not preventable, minimize and mitigate impacts
20 to overburdened communities or vulnerable populations identified by
21 the department.

22 (39) "Steel" means any covered product made of a ferrous metal
23 substance.

24 (40) "Vulnerable populations" has the same meaning as defined in
25 RCW 70A.02.010.

26 NEW SECTION. **Sec. 103.** PRODUCER RESPONSIBILITY ORGANIZATION
27 DUTIES. (1)(a) Beginning July 15, 2024, each producer that offers for
28 sale, sells, or distributes in or into Washington a covered product
29 must join a producer responsibility organization that is registered
30 with the department or register with the department as a producer
31 responsibility organization. A producer that has not joined a
32 producer responsibility organization may not sell or supply covered
33 products in or into Washington.

34 (b) Until the conclusion of the initial plan implementation
35 period as provided under section 108 of this act, the department must
36 only accept the registration of a single producer responsibility
37 organization, other than any producers that register individually as
38 a producer responsibility organization. Until the conclusion of the
39 initial plan implementation period, producers of covered products

1 must either join the producer responsibility organization or register
2 individually as a producer responsibility organization for purposes
3 of compliance under this section. If applications for more than one
4 producer responsibility organization are submitted to the department
5 by July 15, 2024, not counting applications submitted by individual
6 producers, the department must determine which proposed producer
7 responsibility organization can most effectively implement this
8 chapter.

9 (c) If more than one producer responsibility organization is
10 registered with the department, the producer responsibility
11 organizations must submit a coordination plan to the department for
12 approval. If requested by the producer responsibility organizations,
13 the department may serve as a coordinating body or oversee
14 coordination of producer responsibility organization plans. The
15 requirements of this subsection apply to the initial plan period
16 consisting of a single producer responsibility organization and any
17 producers registering individually, and subsequent plan periods where
18 multiple producer responsibility organizations and individual
19 producers may register with the department.

20 (d) A person who would be determined to be the producer of a
21 covered product, based on the definition of "producer" as defined in
22 section 102 of this act, is not required to join a producer
23 responsibility organization for that covered product if another
24 person has joined a producer responsibility organization and
25 registered as the producer responsible for that covered product under
26 this chapter.

27 (2) A producer responsibility organization that meets the
28 definition under section 102 of this act that implements or proposes
29 to implement a plan under this chapter may not include on its board
30 of directors, or otherwise be governed by, representatives or
31 affiliates of any public or private entities that submit bids to
32 perform work for the producer responsibility organization or that
33 contract with the producer responsibility organization.

34 (3) By July 15, 2024, and each July 15th thereafter, each
35 producer, through a submission by a producer responsibility
36 organization, must register with the department. A registration
37 submission by a producer responsibility organization must include the
38 following:

39 (a) (i) A list of all their member producers and their brands of
40 covered products, and members of the board of directors;

1 (ii) If there are changes to the list of member producers and
2 brands or members of the board of directors by the end of a given
3 quarter, a producer responsibility organization must submit an
4 updated list to the department within 30 days of the end of that
5 quarter.

6 (b) Until a producer responsibility organization begins to submit
7 annual reports, as specified under section 119 or 209 of this act,
8 the following data for the prior calendar year:

9 (i) The weight, by material category, of covered products
10 supplied into the state to consumers;

11 (ii) A description of how the producer responsibility
12 organization has distinguished and apportioned the quantities of
13 packaging and paper products sold or supplied to consumers that are
14 considered covered products under this chapter, from quantities of
15 packaging and paper products sold or supplied for other uses that are
16 not considered covered products under this chapter. A producer
17 responsibility organization may rely on member reporting for this
18 description. The weight of any covered products that are reusable or
19 compostable must each be reported separately from the weight of other
20 types of covered products; and

21 (iii) A list of all member producers and their brands of
22 postconsumer recycled content products required to meet the
23 postconsumer recycled content requirements of chapter 70A.--- RCW
24 (the new chapter created in section 602 of this act).

25 (c) A producer responsibility organization may submit national or
26 regional data allocated on a per capita basis for Washington to
27 approximate the information required in this subsection if state-
28 level data is not available or feasible to generate.

29 (4) By June 30, 2025, and every June 30th thereafter, every
30 registered producer responsibility organization must submit an annual
31 payment to the department for the preceding fiscal year, as
32 determined by the department in section 104 of this act, to fund the:

33 (a) Costs to implement, administer, and enforce this chapter and
34 chapter 70A.--- RCW (the new chapter created in section 602 of this
35 act), including rule making;

36 (b) Statewide needs assessment established in section 105 of this
37 act; and

38 (c) Support and facilitation of the advisory council created in
39 section 120 of this act.

1 (5) Within six months of the first adoption of rules relating to
2 this chapter, every registered producer responsibility organization
3 must submit a plan meeting the requirements of section 107 of this
4 act to the department for approval consistent with the requirements
5 of this chapter.

6 (a) A producer responsibility organization registered with the
7 department as of July 15, 2026, must:

8 (i) Implement its plan as approved by the department by January
9 1, 2028, or within six months of plan approval, whichever is later;

10 (ii) Submit the annual postconsumer recycled content report to
11 the department in April for the prior calendar year required in
12 section 209 of this act; and

13 (iii) Submit an annual report for the prior calendar year to the
14 department consistent with section 119 of this act by July 1, 2029,
15 and each July 1st thereafter.

16 (b) A producer responsibility organization registering for the
17 first time with the department after July 15, 2026, must:

18 (i) Submit the list of producers, brands, board members, data,
19 and department payment as required in subsections (3) and (4) of this
20 section;

21 (ii) Submit a plan to the department for approval, informed by a
22 stakeholder consultation process and consistent with the requirements
23 of this chapter, within one year of registration;

24 (iii) Submit a new or revised plan within 60 days after receipt
25 of a letter of disapproval from the department, if applicable;

26 (iv) Implement its plan as approved by the department within six
27 months of approval;

28 (v) Submit the annual postconsumer recycled content report for
29 the prior calendar year required in section 209 of this act; and

30 (vi) Submit an annual report for the prior calendar year to the
31 department consistent with section 119 of this act by July 1st,
32 beginning the first year after plan implementation.

33 (6) A producer responsibility organization must respond, in
34 writing, to the advisory council's written comments and
35 recommendations within 60 days of receipt.

36 NEW SECTION. **Sec. 104.** DEPARTMENT'S DUTIES. (1) The department
37 must implement, administer, and enforce this chapter. The
38 department's implementation, administration, and enforcement duties
39 under this chapter, including the requirements of this section, are

1 supplemented by the provisions of chapter 70A.--- RCW (the new
2 chapter created in section 602 of this act).

3 (2)(a) By April 1, 2025, and every April 1st thereafter, the
4 department must:

5 (i) Prepare a workload analysis that identifies the projected
6 annual costs to implement, administer, and enforce this chapter and
7 chapter 70A.--- RCW (the new chapter created in section 602 of this
8 act), including rule making, in the next fiscal year;

9 (ii) Determine a total annual fee payment to be paid by each
10 producer responsibility organization that is adequate to cover, but
11 not exceed, the costs identified in (a)(i) of this subsection and the
12 costs of the:

13 (A) Performance rates study and the statewide needs assessment
14 established in section 105 of this act; and

15 (B) Support and facilitation of the advisory council created in
16 section 120 of this act;

17 (iii) Until rules are adopted under (a)(iv) of this subsection,
18 issue a general order to all registered producer responsibility
19 organizations. The department must equitably determine fee amounts
20 for producer responsibility organizations;

21 (iv) By 2026, adopt rules to equitably determine annual fee
22 payments by producer responsibility organizations. Once these rules
23 are adopted, the general order issued under (a)(iii) of this
24 subsection is no longer effective; and

25 (v) Send notice to producer responsibility organizations of fee
26 amounts due consistent with either the general order issued under
27 (a)(iii) of this subsection or rules adopted under (a)(iv) of this
28 subsection.

29 (b) The department must:

30 (i) Apply any remaining annual payment funds from the current
31 year to the annual payment for the coming fiscal year, if the
32 collected annual payment exceeds the costs identified under (a)(ii)
33 of this subsection for a given year; and

34 (ii) Increase annual payments for the coming fiscal year to cover
35 the costs identified under (a)(ii) of this subsection, if the
36 collected annual payment was less than the amount required to cover
37 those costs for a given year.

38 (3) The department must review the performance rates proposed by
39 producer responsibility organizations as required in section 111 of

1 this act and which must be achieved by the ninth calendar year from
2 the effective date of this section. The department must:

3 (a) Upon receipt from the producer responsibility organization,
4 make proposed performance rates available for public review and
5 comment for at least 30 days;

6 (b) Review proposed performance rates within 90 days of receipt
7 of a complete submission;

8 (c) Make a determination as to whether or not to approve proposed
9 performance rates and notify the producer responsibility organization
10 of the:

11 (i) Determination of approval if the submission meets the
12 requirements of this chapter, taking into consideration comments
13 received under (a) of this subsection; or

14 (ii) Reasons for not approving a submission of proposed
15 performance rates. The producer responsibility organization must
16 submit new or revised proposed performance rates within 30 days after
17 receipt of the letter of disapproval.

18 (4) (a) The department must review new, updated, and revised plans
19 submitted by producer responsibility organizations as required in
20 section 108 of this act. The department must:

21 (i) Make new, updated, and revised plans available for public
22 review and comment for at least 30 days prior to the department's
23 approval decision;

24 (ii) Review new, updated, and revised producer responsibility
25 organization plans within 120 days of receipt of a complete plan;

26 (iii) Make a determination as to whether or not to approve a
27 plan, plan update, or plan revision and notify the producer
28 responsibility organization of the:

29 (A) Determination of approval if a plan provides for a program
30 that meets the requirements of this chapter, taking into
31 consideration comments received under (a) (i) of this subsection; or

32 (B) Reasons for not approving a plan. The producer responsibility
33 organization must submit a new or revised plan within 60 days after
34 receipt of the letter of disapproval. In the event that a new or
35 revised plan submitted by a producer responsibility organization does
36 not sufficiently meet the requirements of this chapter, including any
37 deficiencies identified in the initial letter of disapproval, the
38 department may:

39 (I) Use the enforcement powers specified in section 123 of this
40 act; or

1 (II) Amend the contents of the insufficient new or revised plan
2 in a manner that ensures that the plan meets the requirements of this
3 chapter and the department may require the producer responsibility
4 organization to implement the plan as amended by the department.

5 (b) The approval of a plan by the department does not relieve
6 producers participating in the plan from responsibility for
7 fulfilling the requirements of this chapter.

8 (5) The department must review annual reports submitted by
9 producer responsibility organizations as required in section 119 of
10 this act and under chapter 70A.--- RCW (the new chapter created in
11 section 602 of this act). The department must:

12 (a) Make annual reports available for public review and comment
13 for at least 30 days upon the receipt of the annual report by the
14 department;

15 (b) Review within 120 days of receipt of a complete annual
16 report;

17 (c) Make a determination as to whether or not an annual report
18 meets the requirements of section 119 of this act and notify the
19 producer responsibility organization of the:

20 (i) Determination of approval of the annual report; or

21 (ii) Reasons for not approving the annual report. The producer
22 responsibility organization must submit a revised annual report
23 within 60 days after receipt of the letter of disapproval;

24 (d) Notify a producer responsibility organization if the annual
25 report demonstrates that the program and activities to implement the
26 plan fail to achieve the performance rates approved by the department
27 or otherwise fail to achieve significant requirements under this
28 chapter.

29 (6) The department must adopt rules as necessary to implement,
30 administer, and enforce this chapter.

31 (7) Except where otherwise provided in this chapter, the
32 department shall seek to adopt rules that are harmonized with the
33 regulatory standards, exemptions, reporting obligations, and other
34 compliance requirements of other states that:

35 (a) Have adopted producer responsibility programs similar to the
36 program established in this chapter; and

37 (b) (i) Are home to producers that supply, or have the potential
38 to supply, significant quantities of covered products to Washington
39 markets; or

1 (ii) To which Washington supplies, or has the potential to
2 supply, significant quantities of covered products.

3 (8) The department may by rule require producer responsibility
4 organizations to fund activities to make convenient collection
5 services available for recycling of covered products designated for
6 collection from locations or entities determined to be significant
7 sources of covered product waste and that are additional to those
8 locations identified under section 113 of this act. These locations
9 or entities may include, but are not limited to, public places and
10 official gatherings at which a local government provides solid waste
11 services. These locations or entities may not include retail
12 establishments. Rules adopted under this subsection apply to producer
13 responsibility organizations no earlier than January 1, 2029, and may
14 be updated no more frequently than every five years.

15 (9) The department must maintain a public website that:

16 (a) Lists each registered producer responsibility organization
17 along with its member producers and their covered products that are
18 included under the producer responsibility organization's plan; and

19 (b) Makes available each plan and annual report received by the
20 department under this chapter.

21 NEW SECTION. **Sec. 105.** RATE STUDY AND STATEWIDE NEEDS
22 ASSESSMENT. (1) To inform the implementation of the program, the
23 department must conduct a performance rates study and a statewide
24 needs assessment that must be:

25 (a) Carried out by a third-party consultant selected by the
26 department; and

27 (b) Funded through payments or reimbursements collected from
28 producer responsibility organizations.

29 (2) (a) The performance rates study must be completed by September
30 1, 2024, and must:

31 (i) Use the recycling rates from the department's *January 2023*
32 *Washington Consumer Packaging and Paper Study: Recycling Rate*
33 *Assessment and Recommendations*;

34 (ii) Use relevant information and recommendations from the
35 department's 2020 plastic packaging study reports, including:

36 (A) *Plastic Packaging in Washington: Assessing Use, Disposal, and*
37 *Management*;

38 (B) *Recycled Content Use in Washington: Assessing Demand,*
39 *Barriers, and Opportunities*;

1 (C) *Successful Plastic Packaging Management Programs and*
2 *Innovations: Washington Plastic Packaging Management Study;*

3 (D) *Recommendations for Managing Plastic Packaging Waste in*
4 *Washington;* and

5 (E) *Evaluation, Assessment, and Recommendations for the*
6 *Responsible Management of Plastic Packaging in Washington;*

7 (iii) Review the performance rates set and achieved in
8 jurisdictions with producer responsibility programs for packaging or
9 similar programs and evaluate whether those rates are applicable in
10 the state;

11 (iv) Recommend performance rates, including:

12 (A) A rate for the overall combined reuse and recycling of
13 covered products;

14 (B) A separate specific minimum reuse rate, that must be counted
15 within the overall combined reuse and recycling rate;

16 (C) A source reduction rate to be achieved solely by eliminating
17 plastic components; and

18 (D) If a distributor responsibility organization under chapter
19 70A.--- RCW (the new chapter created in section 603 of this act) has
20 notified the department of its intent to implement a deposit return
21 system at least six months prior to the date of the completion of a
22 new or updated performance rates study under this section, alternate
23 rates as described under (a)(iv)(A) through (C) of this subsection
24 that exclude qualifying beverage containers that are to be managed
25 under the deposit return system.

26 (b) Recommendations under (a) of this subsection must consider
27 the feasibility of achieving recommended rates based on current rates
28 achieved in the state, rates achieved in other jurisdictions with
29 similar programs, and additional relevant data. The recommended
30 performance rates must be designed to be achieved for covered
31 products statewide by 2032.

32 (c) The advisory council and any producer responsibility
33 organization that is registered with the department by July 15, 2024,
34 must have the opportunity to review and comment on a draft
35 performance rates study prior to its completion.

36 (d) No more frequently than every five years, the department may
37 update the performance rates study required under this section,
38 consistent with subsection (1) of this section.

39 (3) The first statewide needs assessment must be completed by
40 July 1, 2025, and must be consistent with the following requirements:

1 (a) The final scope of the statewide needs assessment must be
2 determined after considering comments and recommendations from the
3 advisory council established in section 120 of this act, from the
4 utilities and transportation commission, and from any producer
5 responsibility organization that is registered with the department by
6 July 15, 2024; and

7 (b) The utilities and transportation commission, the advisory
8 council created in section 120 of this act, and registered producer
9 responsibility organizations must have the opportunity to review and
10 comment on the draft statewide needs assessment prior to its
11 completion.

12 (4) The statewide needs assessment must be:

13 (a) Informed by the findings and recommendations of the
14 performance rates study established in this section and the rates
15 submitted by producer responsibility organizations and approved by
16 the department under section 111 of this act; and

17 (b) Accepted from the selected consultant as complete by the
18 department.

19 (5) The statewide needs assessment must:

20 (a) Evaluate the capacity, costs, gaps, and needs for the
21 following factors:

22 (i) Availability and types of recycling services for covered
23 products relative to the convenience standards specified in section
24 113 of this act and to additional potential service methods
25 recommended by producer responsibility organizations during the study
26 scoping process;

27 (ii) Education and outreach activities relative to the standards
28 specified in section 118 of this act;

29 (iii) Availability and performance of collection, transport, and
30 processing capacity and infrastructure relative to the management
31 standards specified in section 110 of this act and the approved
32 performance rates submitted by producer responsibility organizations,
33 including consideration of material quality and contamination;

34 (iv) Availability and performance of collection, transport, and
35 processing capacity and infrastructure to manage compostable covered
36 products, including consideration of the material quality and
37 contamination;

38 (v) Necessary capital investments to existing reuse and recycling
39 infrastructure; and

1 (vi) Infrastructure or other factors necessary to enable reuse of
2 covered products or the recycling of covered products not currently
3 recycled in the residential recycling system;

4 (b) Compile information related to actual costs incurred by
5 government entities, including entities of sparsely populated, remote
6 areas and dense urban areas, for curbside collection services, drop-
7 off collection services, and other information relevant to the
8 funding requirements for producer responsibility organizations in
9 accordance with section 112 of this act, including costs for various
10 service methods recommended by producer responsibility organizations
11 during the study scoping process;

12 (c) Identify cost factors and other variables to be considered in
13 the development of base cost formulas for establishing per unit
14 reimbursement rates to government entities for curbside collection
15 services delivered in accordance with this chapter. Cost factors and
16 variables to be considered in the base cost formulas include:

17 (i) Population size and density of a local jurisdiction;
18 (ii) Types of households serviced and collection method used;
19 (iii) Distance from a local jurisdiction to the nearest recycling
20 facility;

21 (iv) Whether a jurisdiction pays for transportation and sorting
22 of collected materials and whether it receives recycled commodity
23 material revenue from processed materials;

24 (v) Geographic location or other variables contributing to
25 regional differences in costs, including sparsely populated, remote
26 areas and dense urban areas;

27 (vi) Cost increases over time; and

28 (vii) Any other factors, recycled commodity material revenue, as
29 determined to be necessary by the department, with input from
30 producer responsibility organizations, the advisory council, and the
31 utilities and transportation commission;

32 (d) Identify cost factors, recycled commodity material revenue,
33 and other variables to be considered in the development of
34 reimbursement rates to government entities for any services other
35 than curbside collection that may be included in producer
36 responsibility organization plans to be carried out by government
37 entities;

38 (e) Identify issues to be considered in the development of a
39 service agreement template outlining terms and conditions for

1 reimbursement to government entities for services delivered in
2 accordance with the requirements of this chapter;

3 (f) Compile relevant information to be considered in the
4 development of criteria by the department to determine whether a
5 covered product is recyclable, reusable, or compostable. The
6 department may adopt rules establishing criteria for the
7 determination of whether a covered product is recyclable, reusable,
8 or compostable. The relevant information to be compiled may include
9 whether covered product materials are:

10 (i) Or may be, collected, separated, and processed in sufficient
11 quantity and quality into a marketable feedstock that can be used in
12 the production of new products; or

13 (ii) Designed in a way that is problematic for reuse, recycling,
14 or composting;

15 (g) Evaluate how the state's recycling system can be managed in a
16 socially just manner for the purpose of informing how each producer
17 responsibility organization implementing a plan can support this
18 objective as it relates to activities required under this chapter.
19 The assessment must:

20 (i) Include meaningful consultation with overburdened communities
21 and vulnerable populations;

22 (ii) Determine conditions and make recommendations including, at
23 minimum:

24 (A) An evaluation of recycling processing facility worker
25 conditions, wages, and benefits;

26 (B) The availability of opportunities in the recycling system for
27 women and minority individuals;

28 (C) The sufficiency of local government requirements related to
29 multifamily recycling services and their implementation;

30 (D) Identification of activities that disproportionately impact
31 any community and in particular overburdened communities and
32 vulnerable populations;

33 (E) The sufficiency of recycling education and outreach programs
34 relative to desired socially just management outcomes; and

35 (F) Recommendations for improving socially just management
36 practices and outcomes in the state's recycling system, including
37 considerations for how a producer responsibility organization
38 implementing a plan can support this objective as it relates to
39 activities required under this chapter;

1 (h) Evaluate the extent to which covered products contribute to
2 litter and marine debris for the purpose of informing how a producer
3 responsibility organization implementing a plan can support litter
4 and marine debris prevention as it relates to activities required
5 under this chapter. The assessment should draw on available data,
6 assess gaps, and identify strategies for improving prevention and
7 cleanup of litter and marine debris from covered products;

8 (i) Compile information from available data sources on the
9 presence of toxic substances in covered products and their potential
10 impacts on reuse, recycling, and composting systems. The information
11 compiled is intended to inform the development of eco-modulation
12 factors by a producer responsibility organization that incentivize
13 the reduction of toxic substances that have potentially negative
14 impacts when covered products are managed through reuse, recycling,
15 and home and commercial composting systems.

16 (6)(a) In consultation with the advisory council, the utilities
17 and transportation commission, and registered producer responsibility
18 organizations, the department may update the statewide needs
19 assessment to inform the development of producer responsibility
20 organization plans, including updates to base cost formulas to be
21 used for establishing reimbursement rates to government entities for
22 services delivered in accordance with the requirements of this
23 chapter. Any updates must include an evaluation of public place
24 recycling needs prior to the department considering a requirement, by
25 rule, for public place recycling funding activities under section
26 104(8) of this act.

27 (b) The scope of a needs assessment or needs assessment update
28 may be adjusted to modify or omit study elements described under
29 subsection (3) of this section, after consultation with the advisory
30 council, the utilities and transportation commission, and any
31 producer responsibility organization by January 15th of the year in
32 which the statewide needs assessment update is to be conducted.

33 (c) The scope of a needs assessment update may include an
34 analysis of the plastic resin market including:

35 (i) Analyzing market conditions and opportunities in the state's
36 recycling industry for meeting the minimum postconsumer recycled
37 content requirements for covered products identified in chapter
38 70A.--- RCW (the new chapter created in section 602 of this act); and

1 (ii) Determining the data needs and tracking opportunities to
2 increase the transparency and support of a more effective, fact-based
3 public understanding of the recycling industry.

4 (d) A needs assessment performed prior to January 1, 2029, that
5 includes an analysis of the plastic resin market as described in (c)
6 of this subsection is sufficient to satisfy the requirements of RCW
7 70A.245.060.

8 NEW SECTION. **Sec. 106.** PLAN PARTICIPATION OBLIGATION—
9 STAKEHOLDER CONSULTATION FOR PLAN. (1) Each producer of covered
10 products must participate in, implement, and fund a producer
11 responsibility organization plan approved by the department,
12 consistent with the timelines established in sections 103 and 108 of
13 this act, and in accordance with the funding requirements established
14 in section 112 of this act.

15 (2) A producer responsibility organization that is registered
16 with the department must develop and maintain a public website with
17 enhanced language access informing the public of plan implementation
18 details, including collection services and locations for each type of
19 covered product, and a current list of all member producers and
20 brands of covered products participating in the plan.

21 (3) Prior to submitting a new, updated, or revised plan to the
22 department, a producer responsibility organization must conduct a
23 consultation process to directly and actively involve stakeholders in
24 development of key plan elements established in section 107 of this
25 act. The producer responsibility organization, through the
26 consultation process, must solicit and respond to input and
27 recommendations from the advisory council established in section 120
28 of this act, the utilities and transportation commission, and other
29 stakeholders. The consultation process required in advance of the
30 submission of a plan to the department is in addition to the
31 department-led public comment process specified in section 104(4) of
32 this act. At a minimum, the consultation process must include:

33 (a) Opportunities for all stakeholders, including the advisory
34 council, the utilities and transportation commission, and members of
35 the public to provide comment on the plan for no less than 30 days
36 prior to its submission to the department; and

37 (b) Documentation of all comments received from the advisory
38 council and other stakeholders, and summary of responses provided by
39 the producer responsibility organization for purposes of a

1 stakeholder consultation report to be included with the submission of
2 a plan to the department. The stakeholder consultation report must
3 also describe each forum in which comments or input was received and
4 how it was addressed in the plan.

5 NEW SECTION. **Sec. 107.** PLAN CONTENTS—OVERVIEW. All plans and
6 plan updates must contain the following information:

7 (1) Identification of the governing board members of the producer
8 responsibility organization;

9 (2) A list and explanation of the covered products supplied or
10 sold in or into Washington by each member producer and their brands
11 of covered products participating in the plan;

12 (3) A description of the structure of the fees owed by producers
13 to be used to implement the plan, including the eco-modulation of
14 fees consistent with section 112 of this act;

15 (4) How the producer responsibility organization will encourage
16 and incentivize waste prevention and reduction of consumer packaging
17 and paper products and their associated climate impacts;

18 (5) How the producer responsibility organization will encourage
19 and incentivize redesign of covered products to be reusable,
20 recyclable, or compostable. Nothing in this chapter requires any
21 individual producer to redesign covered products to reduce waste or
22 to be reusable, recyclable, or compostable, or requires any
23 individual covered product to be reusable, recyclable, or
24 compostable;

25 (6) How the producer responsibility organization will use and
26 interact with recycling programs and infrastructure that predate the
27 implementation of the plan;

28 (7) How the producer responsibility organization will fund reuse
29 and recycling infrastructure and market development in Washington
30 state as described in section 117 of this act;

31 (8) How the program will maximize the efficiency of the system of
32 collecting and managing covered products through reuse and recycling;

33 (9) (a) A list of covered products designated for collection
34 statewide as required under section 113 of this act;

35 (b) The list required in (a) of this subsection must identify the
36 covered products designated for collection from residents statewide:

37 (i) Through curbside collection or, where curbside garbage
38 service is not available, through permanent collection facilities;

39 (ii) Through alternate collection; and

1 (iii) Through public place collection;

2 (c) If the list required in (a) of this subsection includes any
3 covered product that is not recyclable as defined in section 102 of
4 this act, the plan must provide a justification for its inclusion on
5 the list and describe activities to be undertaken to allow the
6 covered product to meet the definition of recyclable within a
7 reasonable time frame;

8 (10)(a) A list and description of any covered products that are
9 compostable and the collection systems and processing infrastructure
10 and other activities that will be used to ensure responsible
11 management of compostable covered products;

12 (b) A list and description of covered product reuse and refill
13 collection systems and processing infrastructure;

14 (11) Activities to be undertaken to make convenient collection
15 services available for covered products in accordance with the
16 convenience standards established under section 113 of this act
17 including, at minimum, the following information:

18 (a) The jurisdictions where curbside collection services are
19 available or are anticipated to be available upon the implementation
20 of a plan, including the following service details:

21 (i) Service provider information, including whether the service
22 provider is a government entity, a private service provider under
23 contract with a government entity, or a private service provider
24 regulated by the utilities and transportation commission; and

25 (ii) Service frequency, schedule, collection methods, types of
26 covered products included, and other pertinent service details,
27 including whether any changes are anticipated as part of plan
28 implementation;

29 (b) The locations of permanent collection facilities, the planned
30 hours in which free and equitable access will be provided, and the
31 types of covered products to be collected at each location, including
32 whether any changes are anticipated as part of plan implementation;

33 (c) The types of alternate collection used other than permanent
34 collection facilities, including detailed descriptions of the
35 collection methods, any physical infrastructure used, covered
36 products included, and whether any changes are anticipated as part of
37 plan implementation; and

38 (d) The locations of public place collection services, covered
39 products included, and whether any changes are anticipated as part of
40 plan implementation;

1 (12) Proposed performance rates for covered products reported as
2 supplied, as described in section 111 of this act, including a
3 description of the basis and reasoning for the rates proposed;

4 (13) Activities to be undertaken to meet the performance rates;

5 (14) Activities to be undertaken to implement the education and
6 outreach component as required under section 118 of this act;

7 (15) Activities to facilitate recycling of covered products back
8 into covered products and encourage development of circular economic
9 activity in the state and region. The producer responsibility
10 organization shall provide a description of how the producers would
11 propose to structure agreements to purchase recycled materials from
12 material recovery facilities or other processing facilities,
13 reclaimers, or other end markets to support producers' priority
14 access to commodities, based on fair market pricing for commodities
15 of comparable quality and considering long-term contracts and other
16 purchase arrangements;

17 (16) Activities to be undertaken to minimize the amount and cost
18 of residuals from the collection and processing of covered materials
19 designated for collection. These include residuals from materials
20 recovery facilities or similar facilities producing specification-
21 grade commodities for sale, but do not include residuals from further
22 processing of end market-ready material;

23 (17) Activities to be undertaken to develop or support
24 responsible end markets for covered products;

25 (18) A description of how plan implementation will maintain
26 responsible management practices for covered products through to
27 final disposition and ensure that any covered products collected for
28 recycling will be delivered to a responsible end market as reported
29 by material recovery facilities under section 110(5) of this act;

30 (19)(a) A description of the base cost formulas to be used to
31 calculate per unit reimbursement rates for curbside collection
32 services with similar attributes that are delivered by government
33 entities in accordance with the requirements of this chapter, whether
34 such services are provided directly or through a contracted service
35 provider. If a plan includes more than one base cost formula for
36 curbside collection services, the producer responsibility
37 organization must make clear the conditions under which each formula
38 will be applied;

1 (b) A description of the reimbursement rates to be used for any
2 services other than curbside collection included in the plan that are
3 to be carried out by government entities;

4 (c) A description of:

5 (i) How the per unit reimbursement rates cover all obligations
6 associated with curbside collection services specified in this
7 chapter and any other services included in the plan that are to be
8 delivered by government entities;

9 (ii) How reimbursements will be distributed;

10 (iii) Any terms or conditions covered in the service agreements
11 with government entities for receiving reimbursements, including any
12 service standards and reporting requirements; and

13 (iv) How the producer responsibility organization will work with
14 government entities and other stakeholders to achieve successful
15 implementation of the services for which the producer responsibility
16 organization provides reimbursement;

17 (d) A template of the service agreement and any other forms,
18 contracts, or other documents for use in distribution of
19 reimbursements to government entities and other stakeholders;

20 (e) A description of how the producer responsibility organization
21 will implement the program in a manner consistent with the
22 requirements of section 115 of this act;

23 (20) A description of the service standards for residential
24 curbside collection services provided in areas regulated by the
25 utilities and transportation commission under the provisions of
26 chapter 81.77 RCW;

27 (21) Activities to be undertaken to reduce contamination from
28 covered products at compost or other organic material management
29 facilities as defined in RCW 70A.205.015, including through
30 decontamination equipment improvements and conducting packaging
31 contamination composition studies;

32 (22) A stakeholder consultation report, as described in section
33 106(3)(b) of this act;

34 (23) A description of a third-party process to resolve disputes
35 for determining and paying the reasonable costs that arise between a
36 producer responsibility organization and a government entity or a
37 recycling service provider;

38 (24) A description of how the producer responsibility
39 organization will coordinate with other producer responsibility
40 organizations and any distributor responsibility organizations formed

1 under chapter 70A.--- RCW (the new chapter created in section 603 of
2 this act) in the state, in specific terms if more than one producer
3 responsibility organization or distributor responsibility
4 organization is registered with the department as of the date of a
5 plan's submission, and in general terms addressing coordination
6 priorities to ensure the smooth implementation of this chapter in the
7 event an additional plan or plans become registered with the
8 department during the period of plan implementation;

9 (25) A list of the material categories if distinguished or
10 additional to the material categories identified in section 102(18)
11 (a) through (g) of this act;

12 (26) The contingency plan described in section 109 of this act;
13 and

14 (27) Any other information to be included in the plan as required
15 by the department by rule.

16 NEW SECTION. **Sec. 108.** PLAN APPROVAL, UPDATES, AND REVISIONS.

17 (1)(a) The initial plan due to be submitted under section 103(5) of
18 this act, and updated plans, may address no more than five calendar
19 years.

20 (b) A producer responsibility organization must submit to the
21 department, one year prior to the expiration of any plan, an updated
22 plan for the following five calendar years of operation to address
23 changes in the operations and activities of the program. Updated
24 plans must be designed to begin from the date on which the existing
25 plan is expected to cease to be in effect.

26 (c) If the performance rates set in a producer responsibility
27 organization plan as described in section 111 of this act have not
28 been met as of the time of plan update, the producer responsibility
29 organization must arrange for an independent evaluation to be
30 conducted of the producer responsibility organization's efforts to
31 implement the plan approved by the department. The evaluation must
32 provide information for the producer responsibility organization to
33 use to target and improve program outcomes relative to the proposed
34 and approved performance rates.

35 (d) A producer responsibility organization must carry out the
36 consultation process established in section 106 of this act prior to
37 the submission of each plan and plan update. The consultation process
38 established in section 106 of this act is not required to be carried

1 out by a producer responsibility organization that is submitting a
2 revised plan:

3 (i) In response to an order from the department; or

4 (ii) Subsequent to a letter disapproving of a plan submission by
5 the producer responsibility organization and for which the original
6 plan submitted by the producer responsibility organization had been
7 subject to the consultation process required in section 106 of this
8 act.

9 (2)(a) A producer responsibility organization may choose to
10 update its plan if significant changes have occurred.

11 (b) The department may require a producer responsibility
12 organization to update its plan more frequently than every five years
13 if:

14 (i) The program and activities to implement the plan fail to
15 achieve the performance rates set in producer responsibility
16 organization plans as described in section 111 of this act or
17 otherwise fail to achieve significant requirements under this
18 chapter;

19 (ii) Additional producer responsibility organizations register
20 with the department or receive approval from the department to begin
21 implementing a plan; or

22 (iii) There are significant changes to the regulatory or economic
23 environment in which plan activities are being carried out.

24 NEW SECTION. **Sec. 109.** CONTINGENCY PLAN. (1) A producer
25 responsibility organization must submit to the department a
26 comprehensive contingency plan demonstrating how the activities in
27 the plan will continue to be carried out by some other entity, if
28 needed, such as an escrow company:

29 (a) Until such time as a new plan is submitted and approved by
30 the department;

31 (b) Upon the expiration of an approved plan;

32 (c) In the event that the producer responsibility organization
33 has been notified by the department that they must transfer
34 implementation responsibility for the program to a different producer
35 responsibility organization;

36 (d) In the event that the producer responsibility organization
37 notifies the department that it will cease to implement an approved
38 plan; or

1 (e) In any other event that the producer responsibility
2 organization can no longer carry out plan implementation.

3 (2) The contingency plan required in this section must be
4 submitted to the department as a component of the producer
5 responsibility organization's initial plan submitted to the
6 department under section 103(5) of this act. The department may
7 require a producer responsibility organization to update the
8 contingency plan required under this section coincident with any plan
9 update under section 108 of this act.

10 (3) The department must follow the same process and timelines for
11 reviewing and approving the contingency plan as it follows for
12 reviewing and approving the producer responsibility organization's
13 program plan under section 108 of this act.

14 NEW SECTION. **Sec. 110.** COLLECTION AND MANAGEMENT. (1) Producer
15 responsibility organizations, government entities, and service
16 providers implementing the program must manage covered products in a
17 manner consistent with the state's solid waste management hierarchy
18 established in RCW 70A.205.005.

19 (2) Covered products collected by the program must be responsibly
20 managed at facilities operating with human health and environmental
21 protection standards that are broadly equivalent to or better than
22 those required in the United States and other countries that are
23 members of the organization for economic cooperation and development.

24 (3) Producer responsibility organizations implementing a plan
25 must include measures to:

26 (a) Track, verify, and publicly report that the responsible
27 management of covered products collected by the program is maintained
28 and that recycled materials are delivered to a responsible end
29 market;

30 (b) Promote and facilitate reuse of covered products designed to
31 be reused;

32 (c) Meet the necessary quality standards for recycled materials
33 so that covered products collected by the program may be used to
34 manufacture new products;

35 (d)(i) Document the locations of all material recovery facilities
36 and other processing facilities used to meet the requirements of this
37 chapter, whether within Washington, elsewhere in North America, or
38 outside of North America; and

1 (ii) Describe whether the processing facilities were preexisting,
2 planned, or under construction as of plan approval.

3 (4) (a) Prior to program use of any alternative recycling process
4 for conversion of postuse plastic polymers for the purpose of
5 producing recycled material to be counted toward performance rates
6 under this chapter, the producer responsibility organization must
7 seek the department's approval and submit a third-party assessment of
8 the process's environmental impacts, as described under this
9 subsection. In order for an alternative recycling process to be
10 approved, the department must determine, after considering public
11 comment and input from the advisory council, that the alternative
12 recycling process produces similar or lesser impacts than those
13 produced in recycling that uses purely mechanical means for each of
14 the following environmental impacts:

15 (i) Air and water pollution and release or creation of any
16 hazardous pollutants;

17 (ii) Energy efficiency and greenhouse gas emissions;

18 (iii) Generation of hazardous waste;

19 (iv) Environmental impacts on overburdened communities and
20 vulnerable populations;

21 (v) Water usage including, but not limited to, impacts to local
22 water resources and sewage infrastructure; and

23 (vi) Other environmental impacts as determined by the department
24 by rule.

25 (b) The results of the assessment under (a) of this subsection
26 must, whenever reported and communicated, provide full disclosure of
27 geographical, temporal, and technological boundaries that have been
28 selected for the assessment.

29 (c) The person preparing the assessment under (a) of this
30 subsection may not be interested, directly or indirectly, in the
31 ownership or operation of any recycling facility proposed to conduct
32 the alternative recycling process under assessment.

33 (5) (a) Material recovery facilities and other processing
34 facilities receiving covered products from government entities or
35 private service providers collected through activities undertaken in
36 accordance with this chapter must measure and report annually to the
37 department by commodity type and material category, in a form and
38 format approved by the department, on the following parameters
39 associated with covered products and qualifying beverage containers

1 subject to the provisions of chapter 70A.--- RCW (the new chapter
2 created in section 603 of this act) received and processed:

3 (i) Tons received, by jurisdiction and service provider;

4 (ii) Inbound material quality and contamination;

5 (iii) Outbound material quality and contamination;

6 (iv) Outbound material tons and end markets by commodity type,
7 including whether the end markets are domestic, export to
8 organization for economic cooperation and development countries, or
9 export to facilities in other countries that meet organization for
10 economic cooperation and development operating standards;

11 (v) Management of contaminants and residue to avoid impacts on
12 other waste streams or facilities;

13 (vi) Residuals, including residue rate, composition, and disposal
14 location;

15 (vii) Emission of pollutants to air and water, or other
16 activities that impact public health or the environment, including
17 any reporting required under existing permits where applicable; and

18 (viii) Labor metrics including, but not limited to, wages,
19 unions, and workforce demographics.

20 (b) All data reported to the department by material recovery
21 facilities and other processing facilities under this subsection must
22 be verified by an independent third party and shared with each
23 producer responsibility organization for which the material recovery
24 facility provides a service.

25 (c) The requirements of (a) and (b) of this subsection do not
26 apply to any facility operated by a scrap metal business as defined
27 in RCW 19.290.010 that holds a current scrap metal license unless the
28 covered products handled by such a business were received directly
29 from collection services for which a producer responsibility
30 organization has provided reimbursement.

31 (6) To facilitate recycling of covered products back into covered
32 products and encourage development of circular economic activity in
33 the state and region, material recovery facilities and other
34 processing facilities handling materials under the program shall
35 prioritize agreements with and on behalf of producers or producer
36 responsibility organizations regarding long-term contracts and other
37 purchase agreements based on fair market pricing for commodities of
38 comparable quality.

1 NEW SECTION. **Sec. 111.** PERFORMANCE RATES. (1) By January 1,
2 2025, any registered producer responsibility organization must submit
3 to the department proposed performance rates for covered products
4 reported by the producer responsibility organization as supplied into
5 the state to be achieved by the ninth calendar year from the
6 effective date of this section. In proposing rates, the producer
7 responsibility organization must:

8 (a) Consider the rates recommended in the performance rates
9 study;

10 (b) Propose, at minimum:

11 (i) An overall combined reuse and recycling rate of covered
12 products;

13 (ii) A separate specific minimum reuse rate, that must also be
14 counted within the overall combined reuse and recycling rate; and

15 (iii) A source reduction rate to be achieved solely by
16 eliminating plastic components;

17 (c) Provide a justification for the rates proposed, if they are
18 different from those recommended in the performance rates study; and

19 (d) Adhere to the performance rate calculation methodology
20 established in subsections (3), (4), and (5) of this section.

21 (2) Any producer responsibility organization plan submitted to
22 the department must include rates for covered products reported by
23 the producer responsibility organization as supplied into the state,
24 taking into account the findings of the performance rates study,
25 statewide needs assessment, and additional relevant data. The rates
26 submitted by a producer responsibility organization must be achieved
27 by the end of the plan implementation period.

28 (a) At minimum, the plan must include:

29 (i) An overall combined reuse and recycling rate of covered
30 products;

31 (ii) A separate minimum reuse rate of covered products, which is
32 also to be counted within the overall combined reuse and recycling
33 rate;

34 (iii) A combined reuse and recycling rate for each material
35 category of covered products reported by the producer responsibility
36 organization as supplied into the state; and

37 (iv) A source reduction rate to be achieved solely by eliminating
38 plastic components.

39 (b) Proposed rates must demonstrate continuous improvement in
40 performance rates of covered products over time.

1 (c) Proposed rates must adhere to the performance rate
2 calculation methodology established in subsections (3), (4), and (5)
3 of this section.

4 (d) Any plan submitted to the department prior to the ninth
5 calendar year from the effective date of this section must also
6 include performance rates to be achieved by the ninth calendar year
7 from the effective date of this section. If the rates differ from
8 those previously approved by the department as required under
9 subsection (1) of this section, the producer responsibility
10 organization must provide a justification for the proposed
11 adjustment.

12 (3) For the purposes of this chapter, the department must adopt
13 rules for measuring the performance rates of each material category
14 of covered products included in a producer responsibility
15 organization plan.

16 (4) To be included in a performance rate calculation for purposes
17 of this chapter, recycled materials must be transferred to a
18 responsible end market.

19 (5) For purposes of calculations of reuse and elimination under
20 this section, a producer responsibility organization must include
21 both the weight and number of units.

22 NEW SECTION. **Sec. 112.** FUNDING REQUIREMENTS. (1) A producer
23 responsibility organization implementing a plan must fully fund all
24 activities required under this chapter.

25 (2) A nonreimbursable point-of-sale fee may not be charged to
26 consumers to recoup the costs of meeting producer obligations under
27 this chapter.

28 (3)(a) A producer responsibility organization must develop a
29 system to collect fees from participating producers to cover the
30 costs of plan implementation. To minimize the administrative and
31 reporting costs of the producers and the organization, the fee system
32 must include:

33 (i) A de minimis level in which no fees are charged by the
34 producer responsibility organization, determined by weight of covered
35 products sold into the state;

36 (ii) Additional charges applied specifically to producers of
37 postconsumer recycled content products covered by the requirements of
38 chapter 70A.--- RCW (the new chapter created in section 602 of this
39 act), in an amount roughly equivalent to fully cover the producer

1 responsibility organization's costs of implementing its duties under
2 chapter 70A.--- RCW (the new chapter created in section 602 of this
3 act), including funding the oversight of the department; and

4 (iii) An optional flat rate for producers below a certain size.

5 (b) A producer responsibility organization shall allow producers
6 of covered products that are magazines to satisfy their obligations
7 under this section by providing advertisement or publication
8 supporting the education and outreach activities required under
9 section 118 of this act in their magazines, or on their websites in
10 lieu of program fees as long as the value of the advertisement is
11 equivalent to the estimated cost of managing the covered products
12 that are magazines, which are to be determined as described in
13 subsection (4) of this section. The producer responsibility
14 organization may consider the in-state reach of the advertising when
15 determining the value of the advertising.

16 (4) A producer responsibility organization must base the system
17 of fees assessed to producers upon the estimated cost of managing the
18 material categories of covered products, while seeking to avoid a
19 material category that subsidizes any other material category. In
20 establishing a system of fees, a producer responsibility organization
21 must consider the following factors:

22 (a) The total annual amount of covered products sold or supplied
23 into the state, by material category, whether or not the material is
24 currently recyclable or designated for collection for recycling;

25 (b) The material characteristics and the costs associated with
26 the management of each material category; and

27 (c) The commodity value of each material category as a recycled
28 material.

29 (5)(a) The fee system must use eco-modulation factors to
30 incentivize the use of packaging design attributes that reduce the
31 environmental impacts of covered products. Examples of activities
32 that a fee system may include to satisfy the requirement to use eco-
33 modulation factors include, but are not limited to:

34 (i) Encourage designs that facilitate and improve infrastructure
35 and systems for reuse, recycling, and home and industrial composting,
36 and that achieve reuse, recycling, and home and industrial
37 composting;

38 (ii) Encourage the use of postconsumer recycled content;

39 (iii) Encourage designs that reduce the amount of packaging
40 material used;

1 (iv) Discourage the use of problematic or difficult to recycle
2 materials that increase system costs of managing covered products;
3 and

4 (v) Encourage other design attributes that reduce the
5 environmental impacts of covered products.

6 (b) Any system of program fees under this section that includes
7 discounted fees or favorable treatment of covered products deemed to
8 be reusable must establish a basis for determining that products, in
9 practice, are designed and supported by adequate infrastructure to
10 ensure they are reused multiple times as part of a system of reuse.

11 (c) Fees collected under this fee system must be used exclusively
12 for plan implementation and other activities required under this
13 chapter and chapter 70A.--- RCW (the new chapter created in section
14 602 of this act).

15 (6) If more than one producer responsibility organization is
16 registered within the state, each producer responsibility
17 organization must coordinate with other producer responsibility
18 organizations to provide reimbursement and ensure that government
19 entities and service providers are reimbursed for recycling services
20 as required under this chapter, and to ensure that covered products
21 are not reported as supplied or managed by more than one producer
22 responsibility organization.

23 NEW SECTION. **Sec. 113.** CONVENIENCE STANDARDS. (1) In every
24 jurisdiction in which covered products are sold or supplied to
25 consumers, a producer responsibility organization must fund
26 activities to make convenient collection services available for the
27 full list of covered products designated for collection in the plan.
28 Convenient collection services must be available to residents as
29 follows:

30 (a) Curbside collection must be provided to residents in single-
31 family and multifamily residences wherever curbside garbage
32 collection services are provided to these entities, except in areas
33 where a county has adopted an ordinance after the effective date of
34 this section that designates that covered products must be collected
35 exclusively through alternate collection, and except for covered
36 products designated for alternate collection under a producer
37 responsibility organization plan.

38 (b) (i) In jurisdictions without curbside garbage collection, and
39 in all areas for covered products designated for alternate

1 collection, free and equitable access to permanent collection
2 facilities must be provided that are located, at minimum, at:

3 (A) Each solid waste transfer, processing, or disposal site, or
4 other drop-off location, or a location demonstrated to the department
5 to be of equal convenience, as it existed prior to the effective date
6 of this section; and

7 (B) Additional drop-off locations or collection events in
8 communities that are not covered by a collection location described
9 in (b) (i) (A) of this subsection. A producer responsibility
10 organization, after soliciting and accommodating input from the
11 department, the relevant government entity, and the local community,
12 must determine a reasonable number and location of additional drop-
13 off locations or frequency and location of collection events to be
14 held in underserved areas. A producer responsibility organization
15 must give special consideration for providing opportunities to island
16 and geographically isolated populations.

17 (ii) A retail establishment may choose to serve as a drop-off
18 location or as the site of a collection event, or both, through
19 mutual agreement with a producer responsibility organization, but
20 nothing in this chapter requires a retail establishment to serve as a
21 drop-off location or site of a collection event.

22 (c) For the duration of the initial plan implementation term,
23 collection must be provided in public places:

24 (i) Any location where government entities provided and managed
25 recycling collection receptacles as of July 1, 2023. The number and
26 location of receptacles may be adjusted to optimize collection based
27 on mutual agreement between the producer responsibility organization
28 and the government entity providing the service; and

29 (ii) At additional locations as determined by the producer
30 responsibility organization, after considering the recommendations of
31 the statewide needs assessment in section 105 of this act and
32 stakeholder consultation in section 106 of this act. Collection in
33 additional locations is subject to mutual agreement by the producer
34 responsibility organization and the government entity or other entity
35 responsible for the public place.

36 (2) In any jurisdiction where collection of source separated
37 recyclable materials from residences is provided by a city or town
38 under the authority of RCW 35.21.120, by a county under the authority
39 of RCW 36.58.040, or by a company that holds an applicable
40 certificate under the authority of chapter 81.77 RCW, a producer

1 responsibility organization must meet its curbside collection service
2 obligation through the curbside collection service in the
3 jurisdiction as described in section 114 of this act.

4 (3) (a) A producer responsibility organization must, in its plan,
5 establish a statewide list of covered products designated for
6 collection.

7 (b) If more than one producer responsibility organization is
8 registered with the department, each producer responsibility
9 organization must coordinate with other producer responsibility
10 organizations to establish and annually update in a coordinated
11 submission to the department the statewide list of covered products
12 designated for collection.

13 (4) Every producer responsibility organization must identify in
14 its plan and on its website, in appropriate languages, maps of each
15 area where curbside and alternative collection services for covered
16 products are available, a list and map of the location of each
17 permanent collection opportunity for covered products, the types and
18 a list and map of locations of alternate collection methods used, and
19 a list and map of the locations of public place collection services
20 for covered products.

21 NEW SECTION. **Sec. 114.** GOVERNMENT ENTITIES—AUTHORITY TO COLLECT
22 COVERED PRODUCTS. (1) The provisions of this chapter do not:

23 (a) Obligate a county, city, or town that utilizes its contract
24 authority under RCW 35.21.120 or 36.58.040 for collection of source
25 separated recyclable materials from residents or a city or town that
26 undertakes collection of source separated recyclable materials from
27 residents to participate in a plan implemented by a producer
28 responsibility organization;

29 (b) Restrict the authority of a city under RCW 35.21.120,
30 35.21.130, and 35.21.152; or

31 (c) Restrict the authority of a county under RCW 36.58.040.

32 (2) (a) A city, town, county, or other government entity may enter
33 into contractual agreements with a producer responsibility
34 organization or organizations for the purposes of reimbursement of
35 costs of services provided in accordance with the requirements of
36 this chapter.

37 (b) A producer responsibility organization must reimburse the
38 government entity for services delivered in accordance with the
39 requirements of this chapter as described in section 115 of this act.

1 (c) A government entity is not restricted from including
2 additional materials in curbside or noncurbside collection that are
3 not part of the statewide list of covered products designated for
4 collection, but a producer responsibility organization is not
5 obligated to reimburse costs associated with the additional
6 materials.

7 (3) Consistent with RCW 81.77.020, where a city or town chooses
8 not to exercise its authority under chapter 35.21 RCW, or a county
9 chooses not to exercise its authority under chapter 36.58 RCW,
10 curbside collection of covered products designated for collection as
11 source separated recyclable materials from residences in areas
12 regulated by the utilities and transportation commission under the
13 provisions of chapter 81.77 RCW must be provided by a company that
14 holds an applicable certificate issued by the utilities and
15 transportation commission.

16 (4) A county may, by ordinance, direct that covered products
17 designated for collection by a producer responsibility organization
18 plan be collected exclusively through alternate collection in areas
19 regulated by the utilities and transportation commission under the
20 provisions of chapter 81.77 RCW if the area was designated as rural
21 in the county solid waste management plan and no curbside recycling
22 collection service was offered within those areas as of the effective
23 date of this section.

24 (5) Government entities are not obligated to provide resident
25 education and outreach under this chapter but may carry out or
26 contract for resident education and outreach consistent with producer
27 responsibility organization plan provisions under section 118 of this
28 act and be reimbursed for the costs of education and outreach
29 performed by the government entity as described in section 115 of
30 this act.

31 (6) A city, town, or county may not enact an ordinance requiring
32 producers of covered products to provide residential recycling
33 services for covered products that are additional to the requirements
34 of this chapter unless producers are not required to fully fund the
35 requirements of this chapter under section 112 of this act.

36 NEW SECTION. **Sec. 115.** COST REIMBURSEMENT FOR SERVICES PROVIDED
37 BY GOVERNMENT ENTITIES. (1) A producer responsibility organization
38 with covered products designated for curbside collection under its
39 plan must provide reimbursement to a government entity that chooses

1 to seek reimbursement for costs incurred in delivering curbside
2 collection services, whether these services are provided directly or
3 through a contracted service provider, or both. Costs that must be
4 reimbursed by a producer responsibility organization include, as
5 applicable, any administrative, public education, collection,
6 transportation, and sorting or processing costs incurred in
7 delivering curbside collection services in accordance with the
8 requirements of this chapter. Reimbursements for curbside collection
9 services must be calculated using base cost formulas established in
10 the producer responsibility organization plan approved by the
11 department.

12 (2) If a producer responsibility organization elects to use the
13 services of a government entity for any services included in the
14 producer responsibility organization plan other than curbside
15 collection services, it must provide reimbursement to the government
16 entity. Reimbursement for any services other than curbside collection
17 services may be calculated using reimbursement rates established for
18 noncurbside collection services in the producer responsibility
19 organization plan approved by the department.

20 (3) Any government entity that receives reimbursement for costs
21 incurred in delivering curbside collection services must report or
22 publish reimbursed costs to its residents annually and as part of
23 each rate increase notification required under RCW 35.21.157.

24 NEW SECTION. **Sec. 116.** COST REIMBURSEMENT FOR SERVICES
25 REGULATED BY THE UTILITIES AND TRANSPORTATION COMMISSION. In areas
26 where collection of source separated recyclable materials from
27 residences is regulated by the utilities and transportation
28 commission under chapter 81.77 RCW, a producer responsibility
29 organization must provide reimbursement to the company granted a
30 certificate to provide the service in accordance with the rates
31 approved by the commission, including all associated taxes and fees
32 that would be otherwise charged to residential customers directly or
33 indirectly for recycling service. To be eligible for reimbursement
34 from a producer responsibility organization under this section, the
35 company granted a certificate must provide service that:

- 36 (1) Is offered to residents in single-family and multifamily
37 residences wherever curbside garbage collection services are offered;
38 (2) Includes collection of all covered products designated for
39 curbside collection;

1 (3) Aligns with service standards for curbside collection
2 established by the producer responsibility organization plan under
3 section 107 of this act; and

4 (4) Is provided in a manner consistent with the requirements of
5 this chapter for curbside collection services.

6 NEW SECTION. **Sec. 117.** INFRASTRUCTURE INVESTMENTS. (1) Each
7 producer responsibility organization must fund and support
8 investments in infrastructure and market development in Washington
9 state as needed to achieve the convenience standards specified in
10 section 113 of this act, the management standards specified in
11 section 110 of this act, the performance rates set in producer
12 responsibility organization plans as described in section 111 of this
13 act, or to address infrastructure gaps, as identified through the
14 statewide needs assessment under section 105 of this act and through
15 the consultation process under section 106 of this act. Investments
16 in infrastructure and market development may include, but are not
17 limited to, those needed to enable reuse of covered products or the
18 recycling or composting of covered products not currently recycled or
19 composted in the residential recycling system, such as:

20 (a) Installing or upgrading equipment to improve sorting of
21 covered products or mitigating the impacts of covered products to
22 other commodities at existing sorting and processing facilities; and

23 (b) Capital expenditures for new technology, equipment, and
24 facilities.

25 (2) Investments must be detailed in the annual report submitted
26 to the department in the manner specified in section 119 of this act.
27 In meeting the requirements of this section, a producer
28 responsibility organization must prioritize investments in
29 preexisting infrastructure within Washington state. If a producer
30 responsibility organization did not invest in preexisting
31 infrastructure within Washington state, the annual report must
32 include a statement of the reasons why no such investment was made.

33 NEW SECTION. **Sec. 118.** EDUCATION AND OUTREACH. (1) Each plan
34 implemented by a producer responsibility organization under this
35 chapter must include education and outreach activities that
36 effectively reach diverse residents, are accessible, are clear, and
37 support the achievement of the performance rates set in producer
38 responsibility organization plans as described in section 111 of this

1 act. To implement the education and outreach activities described in
2 the plan, a producer responsibility organization must, at minimum:

3 (a) Develop and provide outreach and educational materials,
4 resources, and campaigns about the program to be used by retail
5 establishments, collectors, government entities, and nonprofit
6 organizations. The materials, resources, and campaigns developed
7 under this section must encourage participation in recycling
8 collection and reuse and refill systems and must achieve:

9 (i) Education and engagement with residents on recycling, reuse,
10 and refill behaviors;

11 (ii) Outreach to obtain consistently high levels of public
12 participation in and use of collection services and reuse and refill
13 systems, including where and how to recycle covered products
14 designated for collection, or return or refill reusable covered
15 products; and

16 (iii) Education and engagement to reduce the rate of inbound
17 contamination or unwanted materials;

18 (b) Coordinate and fund the distribution and deployment of
19 statewide promotional campaigns developed under this section through
20 media channels that may include, but are not limited to, print
21 publications, radio, television, the internet, and online streaming
22 services;

23 (c) Use consistent and easy to understand messaging and education
24 statewide, with the aim of reducing resident confusion regarding the
25 recyclability, reuse, compostability, and end-of-life management
26 options available for different covered products;

27 (d) Be conceptually, linguistically, and culturally accurate for
28 the communities served and tailored to effectively reach the state's
29 diverse populations, including through meaningful consultation with
30 overburdened communities and vulnerable populations;

31 (e) Establish a process for answering customer questions and
32 resolving customer concerns; and

33 (f) Evaluate the effectiveness of education and outreach efforts
34 for the purposes of making progress toward performance requirements
35 established in this chapter.

36 (2)(a) A producer responsibility organization must coordinate
37 with government entities that choose to participate in carrying out
38 resident education and outreach in accordance with the approach
39 specified in the producer responsibility organization's plan.

1 (b) All producer responsibility organizations implementing a plan
2 approved by the department must collaborate to present a consistent
3 statewide program to ensure that all state residents can easily
4 identify, understand, and access services provided by any approved
5 producer responsibility organization. The department may require
6 producer responsibility organizations to coordinate and use
7 consistent signage and consistent messaging in education and outreach
8 activities under this section.

9 NEW SECTION. **Sec. 119.** ANNUAL REPORTING ON ACTIVITIES. (1)
10 Beginning July 1, 2028, and each July 1st thereafter, each producer
11 responsibility organization must submit an annual report to the
12 department for the preceding calendar year of plan implementation.
13 Each annual report must include data, descriptions, and other
14 information sufficient to allow the department to determine whether a
15 producer responsibility organization has fulfilled its obligations
16 under this chapter during the preceding calendar year, including
17 actions identified by the producer responsibility organization to be
18 undertaken as part of the plan submitted under section 107 of this
19 act, and actions to implement the requirements and other provisions
20 of this chapter including, but not limited to, sections 110 through
21 118 of this act.

22 (2) In addition to the data, descriptions, and information
23 specified in subsection (1) of this section, each annual report must
24 include the following:

25 (a) Identification of the governing board members of the producer
26 responsibility organization;

27 (b) The final destinations of recycled material managed by the
28 program as reported by material recovery facilities under section
29 110(5) of this act, including:

30 (i) Names and locations of end users or reprocessors that
31 received recycled material managed by the program, by material
32 category; and

33 (ii) Descriptions of material categories managed by the program
34 that were sold or supplied to the end users or reprocessors; and

35 (c) The total cost of implementing the plan approved by the
36 department, as determined by an independent financial audit and
37 performed by an independent auditor, including:

38 (i) Information regarding the independently audited financial
39 statements detailing all payments received and issued by the producer

1 responsibility organization covered by the plan approved by the
2 department;

3 (ii) A copy of the independent audit; and

4 (iii) A detailed description of how the program compensates
5 government entities, private collection and transportation service
6 providers, sorting and processing facilities, and other approved
7 entities for services under chapters 70A.--- (the new chapter created
8 in section 601 of this act), 70A.--- (the new chapter created in
9 section 602 of this act), and 70A.--- RCW (the new chapter created in
10 section 603 of this act).

11 (3)(a) Prior to the submission of the annual report, all
12 nonfinancial data and information that is material to the
13 department's review of the program's compliance with the requirements
14 of this chapter must be audited annually by a third party that is a
15 nationally recognized, independent laboratory or certification body
16 that has received ISO/IEC 17065 accreditation as it existed as of
17 January 1, 2023, or a similar accreditation as determined by the
18 department.

19 (b) Annual independent auditing and verification must:

20 (i) Include documentation of the performance rate calculations;
21 and

22 (ii) Encompass the management of materials from the point of
23 collection through processing and sale of recycled materials to
24 responsible end markets.

25 NEW SECTION. **Sec. 120.** ADVISORY COUNCIL. (1) The advisory
26 council is established.

27 (2) The advisory council consists of members appointed by the
28 department as follows:

29 (a) Four representatives of local governments representing
30 geographic areas across the state, including two representatives of
31 counties and two representatives of cities, each with one
32 representative of urban communities and one representative of rural
33 communities;

34 (b) One representative of tribal or indigenous solid waste
35 services organizations;

36 (c) One representative of special purpose districts involved in
37 activities related to the end-of-life management of solid waste;

1 (d) Two representatives of community-based organizations whose
2 mission is to serve the interests of overburdened communities and
3 vulnerable populations;

4 (e) Two representatives of environmental nonprofit organizations;

5 (f) One owner or operator of a small business that is not
6 eligible for representation under (g), (h), or (i) of this
7 subsection;

8 (g) Six representatives of the recycling industry, including
9 local governments' service providers, solid waste collection
10 companies or associations, material recovery facilities, or other
11 processing facilities;

12 (h) Three representatives of producers of covered products or
13 producer trade associations representing different types of covered
14 products. A member appointed to the council under this subsection may
15 not be a representative or a member of the board of directors of a
16 producer responsibility organization registered with the department
17 under section 103 of this act;

18 (i) Two representatives of packaging suppliers that are not
19 producers as defined under this chapter representing different
20 material categories; and

21 (j) One representative of a retail establishment.

22 (3) Advisory councilmembers must be appointed by the director of
23 the department by January 1, 2024. In appointing members, the
24 department shall:

25 (a) Appoint members that, to the greatest extent practicable,
26 represent diversity in race, ethnicity, age, and gender, urban and
27 rural areas, and different regions of the state;

28 (b) Consider recommendations for appointments from relevant
29 represented groups or associations and from individuals interested in
30 participating on the advisory council.

31 (4)(a) The terms of initial appointments must be staggered to two
32 and three-year appointments, with subsequent terms of three years.
33 Members are eligible for reappointment.

34 (b) If there is a vacancy for any reason, the department shall
35 make an appointment to become effective immediately for the unexpired
36 term.

37 (5)(a) The advisory council shall elect one of its members to
38 serve as chairperson and another to serve as vice chairperson, for
39 the terms and with the duties and powers necessary for the
40 performance of the functions of such offices as the advisory council

1 determines. The chairperson and vice chairperson may not both be
2 members appointed under the same subsection of subsection (2)(a)
3 through (i) of this section.

4 (b) The advisory council may adopt bylaws and a charter for the
5 operation of its business for the purposes of this chapter.

6 (6) The advisory council shall meet at least once every three
7 months for the first three years, at times and places specified by
8 the chairperson. The advisory council may also meet at other times
9 and places, including virtually, specified by the call of the
10 chairperson or of a majority of the councilmembers, as necessary, to
11 carry out the duties of the advisory council.

12 (7)(a) The department shall provide staff support and
13 facilitation as necessary for the advisory council to carry out its
14 duties.

15 (b) The department may select an impartial, third-party
16 facilitator to convene and provide administrative support to the
17 advisory council.

18 (8) The duties of the advisory council include the following:

19 (a) Advise and make recommendations to the department on the
20 scope of the statewide needs assessments;

21 (b) Review and comment on a draft performance rate study and on a
22 draft statewide needs assessment prior to their completion;

23 (c) Advise and make recommendations to any registered producer
24 responsibility organization during stakeholder consultation on plans
25 as required under section 106 of this act;

26 (d) Review and comment on all new and updated plans submitted by
27 producer responsibility organizations to the department, including
28 making recommendations to the department on plan approvals, as part
29 of the public comment period as established under section 104 of this
30 act;

31 (e) Advise and make recommendations to any registered producer
32 responsibility organization on annual reports prior to submission as
33 established in section 119 of this act;

34 (f) Review and comment on all annual reports submitted by
35 producer responsibility organizations to the department, including
36 making recommendations to the department regarding the need for any
37 plan amendments or other recommendations regarding program
38 activities; and

39 (g) Provide input, review, and comment on rule making developed
40 by the department under this chapter.

1 (9) Advisory councilmembers that are representatives of tribes or
2 tribal and indigenous services organizations or community-based and
3 environmental nonprofit organizations must, if requested, be
4 compensated and reimbursed in accordance with RCW 43.03.050,
5 43.03.060, and 43.03.220.

6 (10) The department must include costs related to the advisory
7 council in the estimate of annual costs as established in sections
8 104 and 307 of this act, including costs for:

9 (a) Department resources, including staff time;

10 (b) A third-party facilitator, including related costs; and

11 (c) Expenses related to member participation as established in
12 subsection (9) of this section.

13 NEW SECTION. **Sec. 121.** CONFIDENTIAL INFORMATION SUBMISSION. A
14 producer responsibility organization, material recovery facility, or
15 other processing facility that submits information or records to the
16 department under this chapter may request that the information or
17 records be made available only for the confidential use of the
18 department, the director of the department, or the appropriate
19 division of the department. The director of the department must give
20 consideration to the request and if this action is not detrimental to
21 the public interest and is otherwise in accordance with the policies
22 and purposes of chapter 43.21A RCW, the director must grant the
23 request for the information to remain confidential as authorized in
24 RCW 43.21A.160.

25 NEW SECTION. **Sec. 122.** PROHIBITION ON THE USES OF FUNDS BY
26 PRODUCER RESPONSIBILITY ORGANIZATIONS. (1) A producer responsibility
27 organization may not use funds collected for purposes of implementing
28 a plan required under this chapter for costs associated with:

29 (a) The payment of an administrative penalty levied under this
30 chapter;

31 (b) Administrative appeals of orders or penalties issued under
32 this chapter;

33 (c) Litigation between the producer responsibility organization
34 and the state;

35 (d) Compensation of a person whose position is primarily
36 representing the producer responsibility organization relative to the
37 passage, defeat, approval, or modification of legislation that is
38 being considered by a government entity; or

1 (e) Paid advertisements related to encouraging the passage,
2 defeat, or approval, or modification of legislation that is being
3 considered during an upcoming or current legislative session or was
4 considered during the previous legislative session.

5 (2) Nothing in this section limits the authority of a producer
6 responsibility organization to collect funds, such as through a
7 special assessment, for purposes other than implementing a plan
8 required under this chapter, such as for the purposes identified in
9 subsection (1)(a) through (e) of this section.

10 NEW SECTION. **Sec. 123.** ENFORCEMENT AUTHORITY. (1)(a) The
11 department may administratively impose a civil penalty of up to
12 \$1,000 per violation per day on any person who violates this chapter
13 or on any producer responsibility organization that violates the
14 postconsumer recycled content provisions applicable to producer
15 responsibility organizations under chapter 70A.--- RCW (the new
16 chapter created in section 602 of this act) and up to \$10,000 per
17 violation per day for the second and each subsequent violation.

18 (b) For producers out of compliance with the requirements of this
19 chapter, the department shall provide written notification and offer
20 information to producers in violation of this section. For the
21 purposes of this section, written notification serves as notice of
22 the violation. The department must issue at least one notice of
23 violation by certified mail prior to assessing a penalty and the
24 department may only impose a penalty on a producer that has not met
25 the requirements of this chapter 60 days following the date the
26 written notification of the violation was sent.

27 (2) Upon the department notifying a producer responsibility
28 organization that it has not met a significant requirement of this
29 chapter or chapter 70A.--- RCW (the new chapter created in section
30 602 of this act), the department may, in addition to assessing the
31 penalties provided in subsection (1) of this section, take any
32 combination of the following actions:

33 (a)(i) Issue corrective action orders to a producer or producer
34 responsibility organization;

35 (ii) Issue orders to a producer responsibility organization to
36 provide for the continued implementation of the program in the
37 absence of an approved plan;

1 (b) Revoke the producer responsibility organization's plan
2 approval and require the producer responsibility organization to
3 implement its contingency plan under section 109 of this act;

4 (c) Require a producer responsibility organization to revise or
5 resubmit a plan within a specified time frame; or

6 (d) Require additional reporting related to compliance with the
7 significant requirement of this chapter that was not met.

8 (3) Prior to taking the actions described in subsection (2)(b) of
9 this section, the department must provide the producer responsibility
10 organization or the producer an opportunity to respond to or rebut
11 the written finding upon which the action is predicated.

12 (4) Any person who incurs a penalty under subsection (1) of this
13 section or an order under subsection (2) of this section may appeal
14 the penalty or order to the pollution control hearings board
15 established in chapter 43.21B RCW.

16 (5) Penalties levied under this section must be deposited in the
17 recycling enhancement account created in RCW 70A.245.100.

18 NEW SECTION. **Sec. 124.** TRUTH IN LABELING. (1) Beginning January
19 1, 2027, a producer may not offer for sale, sell, or distribute in or
20 into Washington, including by means of remote sale, any covered
21 product under this chapter, certified product under chapter 70A.245
22 RCW, or qualifying beverage container under chapter 70A.--- RCW (the
23 new chapter created in section 603 of this act) that makes a
24 deceptive or misleading claim about its recyclability.

25 (a) A covered product, certified product, or qualifying beverage
26 container that displays a chasing arrows symbol, a chasing arrows
27 symbol surrounding a resin identification code, or any other symbol
28 or statement indicating that it is recyclable is deemed to be
29 deceptive or misleading unless it is designated for collection in a
30 producer responsibility organization plan approved by the department
31 as described in section 107 of this act or is a qualifying beverage
32 container in a deposit return system under chapter 70A.--- RCW (the
33 new chapter created in section 603 of this act).

34 (b) A label is not considered a misleading or deceptive claim of
35 recyclability if it:

36 (i) Is required by another state or by a federal law or agency at
37 the time that the claim is made;

38 (ii) Is part of a widely adopted and standardized third-party
39 labeling system; or

1 (iii) Uses a chasing arrows symbol in combination with a clearly
2 visible line placed at a 45-degree angle over the chasing arrows
3 symbol to convey that an item is not recyclable.

4 (2) At such time as an enforceable federal statutory or
5 regulatory standard is implemented for labeling packaging related to
6 recyclability, within 180 days the department shall review criteria
7 under this chapter with federal standards or requirements. Upon
8 completing its review, the department may adopt the federal criteria
9 in lieu of the requirements of this section.

10 (3) Beginning August 1, 2023, a city, town, or county may not
11 enforce an ordinance restricting the distribution or sale of covered
12 products, certified products, or qualifying beverage containers due
13 to displaying a chasing arrows symbol, a chasing arrows symbol
14 surrounding a resin identification code, or any other symbol or
15 statement indicating that it is recyclable if the covered product is,
16 at the time that the claim is made:

17 (a) Designated for collection in a producer responsibility
18 organization plan approved by the department as described in section
19 107 of this act;

20 (b) Required to display the symbol or statement by another state
21 or by a federal law or agency;

22 (c) Part of a widely adopted and standardized third-party
23 labeling system; or

24 (d) Using a chasing arrows symbol in combination with a clearly
25 visible line placed at a 45-degree angle over the chasing arrows
26 symbol to convey that an item is not recyclable.

27 NEW SECTION. **Sec. 125.** PACKAGING REGISTRATION CLEARINGHOUSE—
28 PRODUCER REGISTRATION. (1) The department is authorized to
29 participate in the development and ongoing operation of a regional or
30 multistate clearinghouse for the purpose of facilitating the
31 implementation of state laws and rules on packaging and paper
32 products including, but not limited to, requirements established
33 under this chapter and in chapter 69.50 RCW pertaining to packaging
34 of cannabis products, and chapters 70A.222, 70A.230, 70A.245,
35 70A.340, 70A.350, 70A.455, 70A.--- (the new chapter created in
36 section 602 of this act), and 70A.--- RCW (the new chapter created in
37 section 603 of this act) and other relevant laws.

38 (2) The department may direct producers, including third-party e-
39 commerce sellers, to register and submit any required data, annual

1 reports, fees, and annual payments, and any additional information or
2 documentation to a clearinghouse in lieu of the department.

3 NEW SECTION. **Sec. 126.** OTHER ASSISTANCE PROGRAMS. Nothing in
4 this act impacts an entity's eligibility for any state or local
5 incentive or assistance program to which they are otherwise eligible.

6 NEW SECTION. **Sec. 127.** ACCOUNT. The responsible packaging
7 management account is created in the custody of the state treasury.
8 All receipts received by the department under this chapter and
9 chapter 70A.--- RCW (the new chapter created in section 602 of this
10 act) must be deposited in the account. Only the director of the
11 department or the director's designee may authorize expenditures from
12 the account. The account is subject to the allotment procedures under
13 chapter 43.88 RCW, but an appropriation is not required for
14 expenditures. Expenditures from the account may be used by the
15 department only for implementing, administering, and enforcing the
16 requirements of this chapter and chapter 70A.--- RCW (the new chapter
17 created in section 602 of this act).

18 NEW SECTION. **Sec. 128.** PETITION FOR THE EXCLUSION OF CERTAIN
19 PRODUCTS. (1) Prior to the submission of a new or updated plan under
20 section 107 of this act, the department may review and determine for
21 the duration of the upcoming plan's period of applicability whether
22 to temporarily exclude for reasons of public health and safety from
23 the requirements of this chapter, except as provided in subsection
24 (5) of this section, packaging used to contain the following
25 categories of products, subcategories of the following categories of
26 products, or individual products that are:

27 (a) Regulated as a drug, medical device, or dietary supplement by
28 the federal food and drug administration under the federal food,
29 drug, and cosmetic act, 21 U.S.C. Sec. 301 et seq., as amended or any
30 federal regulation promulgated under the act, or any equipment and
31 materials used to manufacture such products; and

32 (b) Other products subject to requirements under federal laws
33 that make their inclusion in the requirements of this chapter
34 infeasible or inadvisable.

35 (2) The department's review may be initiated by the department or
36 upon a petition by a producer, group of producers, or producer
37 responsibility organization. The department may specify the date by

1 which a petition must be filed under subsection (1) of this section
2 in order to be considered timely for purposes of an upcoming plan
3 implementation period.

4 (3) In making a determination to temporarily exclude a category
5 of products, subcategory of products, or individual product pursuant
6 to subsection (1) of this section, the department must consider, at a
7 minimum, all of the following factors:

8 (a) The technical feasibility of including the category of
9 product, subcategory of product, or individual product in the program
10 created by this chapter, and in recycling the packaging of the
11 product or products; and

12 (b) The progress made by producers of products, categories of
13 products, or subcategories of products in achieving the goals of this
14 chapter, including by reducing the amount of packaging used with the
15 products, increasing the recycled content of the product packaging,
16 and increasing the ability of the products' packaging to be reused or
17 recycled if appropriate.

18 (4) The petition process established in this section is distinct
19 from the processes pertaining to adjustments and exclusions to
20 postconsumer recycled content requirements in section 210 of this
21 act. A product that is temporarily excluded under this section
22 remains subject to postconsumer recycled content requirements
23 established in chapter 70A.--- RCW (the new chapter created in
24 section 602 of this act) unless a petition is separately granted by
25 the department for a product under section 210 of this act.

26 (5) The producer of a product that is temporarily excluded from
27 the requirements of this chapter under this section must report,
28 directly to the department in a form and manner prescribed by the
29 department, the information related to the temporarily excluded
30 product that is required to be reported to the department by producer
31 responsibility organizations under sections 103 and 119 of this act.

32 **Part Two**

33 **Postconsumer Recycled Content Requirements**

34 NEW SECTION. **Sec. 201.** DEFINITIONS. The definitions in this
35 section and section 102 of this act apply throughout this chapter
36 unless the context clearly requires otherwise.

1 (1) (a) "Beverage" means liquid products intended for human or
2 animal consumption and in a quantity more than or equal to two fluid
3 ounces and less than or equal to one gallon, including:

4 (i) Water and flavored water;

5 (ii) Beer or other malt beverages;

6 (iii) Wine;

7 (iv) Distilled spirits;

8 (v) Mineral water, soda water, and similar carbonated soft
9 drinks;

10 (vi) Dairy milk; and

11 (vii) Any other beverage identified by the department by rule.

12 (b) "Beverage" does not include infant formula as defined in 21
13 U.S.C. Sec. 321(z), medical food as defined in 21 U.S.C. Sec.
14 360ee(b)(3), or fortified oral nutritional supplements used for
15 persons who require supplemental or sole source nutritional needs due
16 to special dietary needs directly related to cancer, chronic kidney
17 disease, diabetes, or other medical conditions as determined by the
18 department.

19 (2) "Beverage manufacturing industry" means an association that
20 represents beverage producers.

21 (3) "Brand" means a name, symbol, word, logo, or mark that
22 identifies a product and attributes the product and its components,
23 including packaging, to the brand owner of the product as the
24 producer.

25 (4) "Dairy milk" means a beverage made exclusively or principally
26 from lacteal secretions obtained from one or more milk-producing
27 animals. Dairy milk includes, but is not limited to:

28 (a) Whole milk, low-fat milk, skim milk, cream, half-and-half, or
29 condensed milk; or

30 (b) Cultured or acidified milk, kefir, or eggnog.

31 (5) "De minimis producer" means an entity that annually sells,
32 offers for sale, distributes, or imports:

33 (a) In or into the country for sale in Washington state less than
34 one ton of PCRC products specified in subsection (18)(a)(i) through
35 (vi) of this section; and

36 (b) That have a global gross revenue of less than \$5,000,000 for
37 the most recent fiscal year of the organization.

38 (6) "Department" means the department of ecology.

39 (7) "Durable good" means a product that provides utility over an
40 extended period of time.

1 (8) "Entity" means an individual and any form of business
2 enterprise. For purposes of calculating the de minimis producer
3 thresholds under this chapter, a producer entity includes all legal
4 entities that are affiliated by common ownership of 50 percent or
5 greater, including parents, subsidiaries, and commonly owned
6 affiliates.

7 (9) "Household" means all of the people who occupy a residential
8 property regardless of their relationship to one another.

9 (10) "Household cleaning and personal care product manufacturing
10 industry" means an association that represents companies that
11 manufacture household cleaning and personal care products.

12 (11) "Household cleaning products" means products labeled,
13 marketed, or otherwise indicating that the purpose of the product is
14 to clean, freshen, or remove unwanted substances, such as dirt,
15 stains, and other impurities from objects, interior or exterior
16 structures, vehicles, possessions, and environments associated with a
17 household. These items include:

18 (a) Liquid soaps, laundry soaps, detergents, softeners, surface
19 polishes, and stain removers;

20 (b) Textile cleaners, carpet and pet cleaners, and treatments; or

21 (c) Other products used to clean or freshen areas associated with
22 a household.

23 (12) "Licensee" means a manufacturer of a PCRC product or entity
24 who licenses a brand and manufactures a PCRC product under that
25 brand.

26 (13) "Personal care product" means a product intended or marketed
27 for use to be rubbed, poured, sprinkled, or sprayed on, introduced
28 into, or otherwise applied to the human body for cleansing,
29 beautifying, promoting attractiveness, or altering the appearance
30 including:

31 (a) Shampoo, conditioner, styling sprays and gels, and other hair
32 care products;

33 (b) Lotion, moisturizer, facial toner, and other skin care
34 products;

35 (c) Liquid soap and other body care products; or

36 (d) Other products used to maintain, improve, or enhance personal
37 care or appearance.

38 (14) (a) "Plastic beverage container" means a bottle or other
39 rigid container that is solely made of plastic material and is
40 capable of maintaining its shape when empty, comprised of one or

1 multiple plastic resins designed to contain a beverage. "Plastic
2 beverage container" includes a container's cap or lid.

3 (b) "Plastic beverage container" does not include:

4 (i) Reusable beverage containers, such as containers that are
5 sufficiently durable for multiple rotations of their original or
6 similar purpose and are intended to function in a system of reuse;

7 (ii) Rigid plastic containers or plastic bottles that are or are
8 used for medical devices, medical products that are required to be
9 sterile, drugs, or dietary supplements as defined in RCW 82.08.0293
10 that do not contain a "nutrition facts" label required under federal
11 law;

12 (iii) Bladders or pouches that contain a beverage;

13 (iv) Paper-based beverage containers; or

14 (v) Liners, corks, closures, labels, and other items added
15 externally or internally but otherwise separate from the structure of
16 the bottle or container, other than a lid or cap.

17 (15)(a) "Plastic household cleaning and personal care product
18 container" means a bottle, jug, tub, tube, or other rigid container
19 with:

20 (i) A minimum capacity of eight fluid ounces or its equivalent
21 volume;

22 (ii) A maximum capacity of five fluid gallons or its equivalent
23 volume;

24 (iii) That is capable of maintaining its shape when empty;

25 (iv) Comprised solely of one or multiple plastic resins; and

26 (v) Containing a household cleaning or personal care product.

27 (b) "Plastic household cleaning and personal care product
28 container" does not include:

29 (i) Reusable household cleaning and personal care product
30 containers, such as containers that are sufficiently durable for
31 multiple rotations of their original or similar purpose and are
32 intended to function in a system of reuse;

33 (ii) Rigid plastic containers or plastic bottles that are medical
34 devices, medical products that are required to be sterile,
35 prescription drugs, and dietary supplements as defined in RCW
36 82.08.0293, and packaging used for those products; and

37 (iii) Pesticide products regulated by the federal insecticide,
38 fungicide, and rodenticide act, 7 U.S.C. Sec. 136 et seq. that are in
39 direct contact with the regulated product. This exemption does not

1 include products regulated by the United States food and drug
2 administration.

3 (16) (a) "Plastic tub" means a wide-mouth rigid container used to
4 package consumable or durable goods that reach consumers, with a
5 maximum capacity of 50 ounces, that is:

6 (i) Capable of maintaining its shape when empty;

7 (ii) Comprised solely of one or multiple plastic resins and
8 designed to contain a product; and

9 (iii) Sealed with tamper-proof film or a detachable lid capable
10 of multiple openings and closures.

11 (b) "Plastic tub" does not include:

12 (i) Household cleaning and personal care products;

13 (ii) Plastic containers that are or are used for medical devices,
14 medical products that are required to be sterile, nonprescription and
15 prescription drugs, or dietary supplements as defined in RCW
16 82.08.0293;

17 (iii) Thermoform plastic containers;

18 (iv) Single-use plastic cups; and

19 (v) Other covered products subject to minimum PCRC requirements.

20 (17) (a) (i) "Postconsumer recycled content" or "PCRC" means the
21 certified plastic resin incorporated into plastic packaging for a
22 PCRC product and derived specifically from recycled material
23 generated by households or by commercial or institutional facilities
24 in their role as end users of packaged products that can no longer be
25 used for their intended purpose.

26 (ii) "PCRC" includes returns of material from the distribution
27 chain.

28 (b) "PCRC" does not include plastic from preconsumer or
29 industrial plastic manufacturing sources.

30 (18) (a) "Postconsumer recycled content product" or "PCRC product"
31 means an item in one of the following categories subject to minimum
32 PCRC requirements under this chapter:

33 (i) Household cleaning products that use plastic household
34 cleaning product containers;

35 (ii) Personal care products that use personal care product
36 containers;

37 (iii) Beverages that use plastic beverage containers;

38 (iv) Plastic tubs for food products;

39 (v) Thermoform plastic containers; and

40 (vi) Single-use plastic cups.

1 (b) "PCRC product" does not include any type of container or bag
2 for which the state is preempted from regulating content of the
3 container material under federal law or any items subject to the
4 postconsumer recycling content requirements of chapter 70A.245 RCW.

5 (19)(a) "Producer" means the following person responsible for
6 compliance with requirements under this chapter for a PCRC product
7 sold, offered for sale, or distributed in or into this state:

8 (i) If the product is sold in or with packaging under the brand
9 of the product manufacturer or is sold in packaging that lacks
10 identification of a brand, the producer of the packaging is the
11 person that manufactures the product;

12 (ii) If the product is sold under a retail brand, the producer is
13 the retail brand owner;

14 (iii) If the product is manufactured by a person other than the
15 brand owner, the producer of the packaging is the person that is the
16 licensee of a brand or trademark under which a packaged item is used
17 in a commercial enterprise, sold, offered for sale, or distributed in
18 or into this state, whether or not the trademark is registered in
19 this state;

20 (iv) If there is no person described in (a)(i), (ii), or (iii) of
21 this subsection within the United States, the producer is the person
22 who imports the product into the United States for use in a
23 commercial enterprise that sells, offers for sale, or distributes the
24 product in this state; or

25 (v) A person who would be considered a "producer" of a PCRC
26 product sold, offered for sale, or distributed in or into this state,
27 as defined in (a)(i) through (iv) of this subsection, can designate
28 another responsible producer for that PCRC product if another person
29 agrees to accept responsibility and has registered as the producer
30 responsible for that PCRC product under this chapter.

31 (b) "Producer" does not include:

32 (i) Government agencies, municipalities, or other political
33 subdivisions of the state;

34 (ii) Registered 501(c)(3) charitable organizations and 501(c)(4)
35 social welfare organizations; or

36 (iii) De minimis producers that annually sell, offer for sale,
37 distribute, or import:

38 (A) In Washington state less than one ton of PCRC products; and

39 (B) That have a global gross revenue of less than \$5,000,000 for
40 the most recent fiscal year of the organization.

1 (20) "Producer responsibility organization" has the same meaning
2 as defined in section 102 of this act.

3 (21) "Responsible producer" means a producer that is not a de
4 minimis producer.

5 (22)(a) "Retail establishment" means any person, corporation,
6 partnership, business, facility, vendor, organization, or individual
7 that sells or provides merchandise, goods, or materials directly to a
8 customer.

9 (b) "Retail establishment" includes, but is not limited to, food
10 service businesses as defined in RCW 70A.245.010, grocery stores,
11 department stores, hardware stores, home delivery services,
12 pharmacies, liquor stores, restaurants, catering trucks, convenience
13 stores, or other retail stores or vendors, including temporary stores
14 or vendors at farmers markets, street fairs, and festivals.

15 (23)(a) "Single-use plastic cup" means all beverage cups that are
16 nonsealed or sealed at point of sale.

17 (b) "Single-use plastic cups" do not include:

18 (i) Commercially or home compostable cups;

19 (ii) Expanded polystyrene cups; or

20 (iii) Composite plastic-lined fiber cups.

21 (24)(a) "Thermoform plastic container" means a clear or colored
22 plastic container, such as a clamshell, lid, tray, egg carton,
23 trifold, or similar rigid, nonbottle packaging, formed from sheets of
24 extruded plastic resin and used to package consumable or durable
25 goods that reach consumers, including:

26 (i) Branded and prepackaged containers that have been filled with
27 products and sealed prior to receipt by the retail establishment,
28 such as fresh produce, baked goods, nuts, toys, electronics, and
29 tools;

30 (ii) Containers that may be filled at the point of sale at a
31 retail establishment; and

32 (iii) Unfilled containers that are sold directly.

33 (b) "Thermoform plastic container" includes:

34 (i) Hinged plastic containers, commonly known as "clamshells" or
35 "blister packaging";

36 (ii) Two-piece unhinged containers;

37 (iii) One-piece containers without lids, such as trays; and

38 (iv) Trifold or tent containers with one or more hinges and a
39 flat bottom.

40 (c) "Thermoform plastic container" does not include:

- 1 (i) Household cleaning products or personal care products;
- 2 (ii) Plastic tubs;
- 3 (iii) Reusable containers;
- 4 (iv) A lid or seal of a different material type from plastic;
- 5 (v) A reusable thermoform plastic container that ordinarily would
6 be returned to the manufacturer to be refilled and resold;
- 7 (vi) Plastic containers that are or are used for medical devices,
8 medical products that are required to be sterile, prescription drugs,
9 or dietary supplements as defined in RCW 82.08.0293;
- 10 (vii) Commercially or home compostable containers;
- 11 (viii) Other PCRC products; and
- 12 (ix) Thermoform plastic containers accompanying a durable good
13 when the durable good model, and the associated packaging, was
14 designed prior to January 1, 2025.

15 NEW SECTION. **Sec. 202.** DE MINIMIS PRODUCERS. (1) For purposes
16 of determining whether a producer is a de minimis producer, the
17 weight and revenue definitional thresholds must be calculated at the
18 level of the "entity" associated with the PCRC product by the
19 producer responsibility organization.

20 (2) The exemptions under this chapter for de minimis producers do
21 not apply to entities that have agreed to accept responsibility for
22 compliance with the requirements of this chapter for a PCRC product
23 on the behalf of another producer.

24 (3)(a) De minimis producers are not required to meet annual
25 registration, reporting, PCRC, or fee requirements of PCRC products
26 under this chapter.

27 (b) De minimis producers must annually notify the producer
28 responsibility organization in which the producer participates to
29 demonstrate that they are de minimis producers.

30 (4) The producer responsibility organization must submit to the
31 department information necessary to verify whether a producer
32 qualifies for the de minimis status, including:

33 (a) Annual global gross revenue dollar amount less than or equal
34 to \$5,000,000;

35 (b) Annual total resin weight less than or equal to one ton; and

36 (c) Any additional information requested by the department.

37 NEW SECTION. **Sec. 203.** PCRC REQUIREMENTS FOR PCRC PRODUCTS.

38 (1)(a) By January 1, 2025, and each January 1st thereafter, a

1 producer responsibility organization under chapter 70A.--- RCW (the
2 new chapter created in section 601 of this act) that represents
3 producers who offers for sale, sells, or distributes in or into
4 Washington PCRC products must register with the department on behalf
5 of each producer registered with the producer responsibility
6 organization with sale or distribution of PCRC products in or into
7 Washington. A producer must continue to register and report to the
8 department under the methods established in chapter 70A.245 RCW until
9 a producer responsibility organization registers with the department
10 under chapter 70A.--- RCW (the new chapter created in section 601 of
11 this act).

12 (b) The registration information submitted under (a) of this
13 subsection must include a list of the producers of PCRC products and
14 the associated brand names of the PCRC products represented in the
15 registration submittal.

16 (2) Producers that offer for sale, sell, or distribute in or into
17 Washington the following products must meet the minimum postconsumer
18 recycled content requirements:

19 (a) Beginning January 1, 2024, producers of beverages other than
20 wine in 187 milliliter plastic beverage containers and dairy milk in
21 plastic beverage containers must meet minimum PCRC requirements
22 established under section 204 of this act.

23 (b) Beginning January 1, 2025, producers of household cleaning
24 products or personal care products in plastic household cleaning
25 product containers or plastic personal care product containers must
26 meet minimum PCRC requirements as required under section 205 of this
27 act.

28 (c) Beginning January 1, 2026, producers of plastic tubs used for
29 food products must meet minimum PCRC requirements established under
30 section 206 of this act.

31 (d) Beginning January 1, 2028, producers of wine in 187
32 milliliter plastic beverage containers or dairy milk in plastic
33 beverage containers must meet minimum PCRC requirements established
34 under section 204 of this act.

35 (e) Beginning January 1, 2029, producers of single-use plastic
36 cups must meet minimum PCRC requirements established under section
37 207 of this act.

38 (f) Beginning January 1, 2031, producers of thermoform plastic
39 containers, except those containing durable goods, must meet minimum
40 PCRC requirements established under section 208 of this act.

1 (g) Beginning January 1, 2036, producers of durable goods in
2 thermoform plastic containers must meet minimum PCRC requirements
3 established under section 208 of this act.

4 (3)(a) In addition to the registration information submitted
5 under subsection (1) of this section, each producer of a PCRC product
6 must annually report PCRC to the producer responsibility organization
7 with which it is registered, beginning on the following dates:

8 (i) No later than 30 days after the registration of a producer
9 with a producer responsibility organization under subsection (1)(a)
10 of this section, for plastic beverage containers other than plastic
11 dairy milk containers and 187 milliliter plastic wine containers;

12 (ii) February 1, 2026, for plastic household cleaning product
13 containers and plastic personal care product containers;

14 (iii) February 1, 2027, for plastic tubs used for food products;

15 (iv) February 1, 2029, for plastic dairy milk containers and 187
16 milliliter plastic wine containers;

17 (v) February 1, 2030, for single-use plastic cups;

18 (vi) February 1, 2032, for thermoform plastic containers except
19 those containing durable goods; and

20 (vii) February 1, 2037, for thermoform plastic containers
21 containing durable goods.

22 (b) Producer PCRC annual reports to the producer responsibility
23 organization must include:

24 (i) The amount in pounds of virgin plastic and the amount in
25 pounds of PCRC by resin type used within a single PCRC product
26 category sold, offered for sale, or distributed in or into
27 Washington;

28 (ii) The total PCRC resin as a percentage of the total weight of
29 plastic reported for a single PCRC product category, or other metrics
30 approved by the department; and

31 (iii) Any additional information adopted by rule by the
32 department.

33 NEW SECTION. **Sec. 204.** PCRC REQUIREMENTS FOR PLASTIC BEVERAGE
34 CONTAINERS. A producer of a beverage in a plastic beverage container
35 must meet the following annual minimum PCRC percentage on average for
36 the total quantity of plastic beverage containers, by weight, that
37 are sold, offered for sale, or distributed in or into Washington by
38 the producer effective:

1 (1) For beverages except wine in 187 milliliter plastic beverage
2 containers and dairy milk:

3 (a) January 1, 2024, through December 31, 2025: No less than 15
4 percent PCRC plastic by weight;

5 (b) January 1, 2026, through December 31, 2030: No less than 25
6 percent PCRC plastic by weight; and

7 (c) On and after January 1, 2031: No less than 50 percent PCRC
8 plastic by weight.

9 (2) For wine in 187 milliliter plastic beverage containers and
10 dairy milk:

11 (a) January 1, 2028, through December 31, 2030: No less than 15
12 percent PCRC plastic by weight;

13 (b) January 1, 2031, through December 31, 2035: No less than 25
14 percent PCRC plastic by weight; and

15 (c) On and after January 1, 2036: No less than 50 percent PCRC
16 plastic by weight.

17 NEW SECTION. **Sec. 205.** PCRC REQUIREMENTS FOR HOUSEHOLD CLEANING
18 PRODUCTS AND PERSONAL CARE PRODUCTS. A producer of household cleaning
19 products in plastic containers or a producer of personal care
20 products in plastic containers must meet the following annual minimum
21 PCRC percentage on average for the total quantity of plastic
22 containers, by weight, that are sold, offered for sale, or
23 distributed in or into Washington by the producer effective:

24 (1) January 1, 2025, through December 31, 2027: No less than 15
25 percent PCRC plastic by weight;

26 (2) January 1, 2028, through December 31, 2030: No less than 25
27 percent PCRC plastic by weight; and

28 (3) On and after January 1, 2031: No less than 50 percent PCRC
29 plastic by weight.

30 NEW SECTION. **Sec. 206.** PCRC REQUIREMENTS FOR PLASTIC TUBS FOR
31 FOOD PRODUCTS. A producer of plastic tubs must meet the following
32 annual minimum PCRC percentage on average for the total quantity of
33 plastic tubs used for food products, by weight, that are sold,
34 offered for sale, or distributed in or into Washington by the
35 producer effective:

36 (1) January 1, 2026, through December 31, 2030: No less than 10
37 percent PCRC plastic by weight; and

1 (2) On and after January 1, 2031: No less than 30 percent PCRC
2 plastic by weight.

3 NEW SECTION. **Sec. 207.** PCRC REQUIREMENTS FOR SINGLE-USE PLASTIC
4 CUPS. A producer of single-use plastic cups must meet the following
5 annual minimum PCRC percentage on average for the total quantity of
6 single-use plastic cups, by weight, that are sold, offered for sale,
7 or distributed in or into Washington by the producer effective:

8 (1) For polypropylene single-use plastic cups:

9 (a) January 1, 2029, through December 31, 2030: No less than 15
10 percent PCRC plastic by weight; and

11 (b) On and after January 1, 2031: No less than 25 percent PCRC
12 plastic by weight.

13 (2) For polyethylene terephthalate and polystyrene, and other
14 types of single-use plastic cups:

15 (a) January 1, 2029, through December 31, 2030: No less than 20
16 percent PCRC plastic by weight; and

17 (b) On and after January 1, 2031: No less than 30 percent PCRC
18 plastic by weight.

19 NEW SECTION. **Sec. 208.** PCRC REQUIREMENTS FOR THERMOFORM PLASTIC
20 CONTAINERS. A producer of a thermoform plastic container must meet
21 the following annual minimum PCRC percentage on average for the total
22 quantity of thermoform plastic containers, by weight, that are sold,
23 offered for sale, or distributed in or into Washington by the
24 producer effective:

25 (1) For packaging for consumable goods:

26 (a) January 1, 2031, through December 31, 2035: No less than 10
27 percent PCRC plastic by weight; and

28 (b) On and after January 1, 2036: No less than 30 percent PCRC
29 plastic by weight.

30 (2)(a) Except as provided in (b) of this subsection, for
31 packaging used for durable goods: On and after January 1, 2036, no
32 less than 30 percent PCRC plastic by weight.

33 (b) Packaging designed to accompany a durable good where that
34 durable good model is designed prior to the effective date of the
35 requirement in (a) of this subsection is exempt.

36 NEW SECTION. **Sec. 209.** PCRC REPORTING BY PRODUCER
37 RESPONSIBILITY ORGANIZATIONS. (1) A producer responsibility

1 organization reporting to the department under this chapter must pay
2 fees as specified in chapter 70A.--- RCW (the new chapter created in
3 section 601 of this act).

4 (2) Beginning April 1, 2025, and each April 1st thereafter, a
5 producer responsibility organization must annually report to the
6 department for each producer of PCRC products for which it receives
7 reports from producers under section 203 of this act:

8 (a) The amount in pounds of virgin plastic resin;

9 (b) The amount in pounds of PCRC by resin type used for each
10 category of covered products that are sold, offered for sale, or
11 distributed in or into Washington;

12 (c) The total PCRC resins as a percentage of total weight;

13 (d) Any other information necessary to fulfill the intent of this
14 chapter, as required by rule adopted by the department.

15 (3)(a) The report must be submitted in a format and manner
16 prescribed by the department. A producer may submit national or
17 regional data allocated on a per capita basis for Washington to
18 approximate the information required in this section if the producer
19 or third-party representative demonstrates to the department that
20 state level data are not available or feasible to generate.

21 (b) A producer must maintain a certificate of compliance,
22 conducted by a third-party certification entity, stating that the
23 covered product is in compliance with postconsumer recycled content
24 requirements under this chapter. A third-party certification entity
25 must be an independent, accredited (ISO/IEC 17065) certifying body. A
26 producer shall maintain a certificate of compliance within a year by
27 the dates on which the postconsumer recycled content requirements
28 take effect for the producer's PCRC products.

29 (c) If compliance with minimum recycled content requirements is
30 achieved through an adjustment made pursuant to section 210 of this
31 act, the certificate must state the specific basis upon which the
32 exemption is claimed.

33 (d) The certificate of compliance must be kept on file by the
34 producer for three years from the date of the last sale or
35 distribution by the producer.

36 (e) A producer must furnish a certificate of compliance to the
37 department upon request within 60 days.

38 (f) Requests from a member of the public for any certificate of
39 compliance must be made in writing to the department and must be
40 specific as to the PCRC product information requested. The department

1 must respond to requests from a member of the public under this
2 subsection within 90 days.

3 (g) If manufacturers are required under any other state statute,
4 including chapter 70A.222 RCW, to provide a certificate of
5 compliance, one certificate may be developed containing all required
6 information.

7 (h) If the producer of the PCRC product reformulates or creates a
8 new PCRC product, the producer shall develop an amended or new
9 certificate of compliance for the reformulated or new PCRC product.

10 (4) (a) A producer responsibility organization may, as part of the
11 annual report submitted to the department under this section, or as a
12 separate submission in advance of the effective dates in sections 205
13 through 208 of this act, petition for an exclusion or adjustment
14 under section 210 of this act covering the upcoming calendar year to
15 the minimum PCRC requirements on behalf of producers registered with
16 the producer responsibility organization.

17 (b) When submitting a petition for a PCRC rate adjustment, the
18 producer responsibility organization must provide necessary
19 information that will allow the department to make a determination
20 based on the factors listed in section 210(2) of this act.

21 (c) When submitting a petition for a PCRC rate temporary
22 exclusion, the producer responsibility organization must provide
23 necessary information that will allow the department to make a
24 determination based on the factors listed in section 210(4) of this
25 act.

26 (5) The department must review and determine whether to approve
27 PCRC reports submitted by producer responsibility organizations. The
28 department must:

29 (a) Make PCRC reports submitted under this section, including
30 petitions for exclusions or rate adjustments under section 210 of
31 this act, available for public review and comment for at least 30
32 days upon the receipt of the annual report by the department;

33 (b) Make a determination as to whether or not an annual report
34 meets the requirements of this section and notify the producer
35 responsibility organization of the:

36 (i) Determination of approval of the PCRC annual report; or

37 (ii) Reasons for not approving the PCRC annual report. The
38 producer responsibility organization must submit a revised PCRC
39 annual report within 60 days after receipt of the letter of
40 disapproval.

1 (6) The department must post approved PCRC annual reports
2 submitted by each producer responsibility organization under this
3 section on its website.

4 NEW SECTION. **Sec. 210.** ADJUSTMENTS AND TEMPORARY EXCLUSIONS TO
5 PCRC RATES. (1) The department may review and determine for the
6 following calendar year whether to adjust the minimum PCRC percentage
7 required for a type of container or PCRC product or category of PCRC
8 products under this chapter. The department's review may be initiated
9 by the department or upon a petition by a producer responsibility
10 organization in its annual report submitted to the department under
11 section 209 of this act.

12 (2) In making a determination pursuant to subsection (1) of this
13 section, the department must consider, at a minimum, all of the
14 following factors:

15 (a) Changes in market conditions, including supply and demand for
16 PCRC plastics, collection rates, and bale availability both
17 domestically and globally;

18 (b) Recycling rates;

19 (c) The availability of recycled plastic suitable to meet the
20 minimum PCRC requirements pursuant to subsection (3) or (4) of this
21 section, including the availability of high quality recycled plastic,
22 and food-grade recycled plastic from recycling programs;

23 (d) The capacity of recycling or processing infrastructure;

24 (e) The technical feasibility of achieving the minimum PCRC
25 requirements in covered products that are regulated under 21 C.F.R.,
26 chapter I, subchapter G, 7 U.S.C. Sec. 136, 15 U.S.C. Sec. 1471-1477,
27 49 C.F.R. Sec. 178.33b, 49 C.F.R. Sec. 173, 40 C.F.R. Sec. 152.10, 15
28 U.S.C. Sec. 1261-1278, 49 U.S.C. Sec. 5101 et seq., 49 C.F.R. Sec.
29 178.509, 49 C.F.R. Sec. 179.522, 49 C.F.R. Sec. 178.600-609, and
30 other federal laws; and

31 (f) The progress made by producers in achieving the goals of this
32 chapter.

33 (3)(a) Under this section, the department may not adjust the
34 minimum PCRC requirements above the minimum PCRC percentages under
35 sections 204, 206, 207, and 208 of this act for the year under
36 review.

37 (b) For plastic household cleaning product containers and plastic
38 personal care product containers, the department may not adjust the
39 minimum PCRC requirements above the minimum PCRC percentages for the

1 year under review required pursuant to section 205 of this act or
2 below a minimum of 10 percent.

3 (4) (a) The department must temporarily exclude from minimum PCRC
4 requirements for the upcoming year any types of PCRC products in
5 plastic containers for which a producer responsibility organization
6 demonstrates to the department in its annual report under section 209
7 of this act that the:

8 (i) Producer cannot achieve the PCRC requirements and remain in
9 compliance with applicable rules and regulations adopted by the
10 United States food and drug administration, or any other state or
11 federal law, rule, or regulation; or

12 (ii) Achievement of PCRC requirements in the container material
13 is not technologically feasible.

14 (b) The producer responsibility organization must continue to
15 provide producer registration data and report consistent with the
16 requirements of this chapter for PCRC products temporarily excluded
17 from minimum PCRC requirements under this subsection.

18 (5) A producer or producer responsibility organization may appeal
19 a decision by the department to adjust PCRC percentages under this
20 section or to temporarily exclude covered products from minimum PCRC
21 requirements under subsection (4) of this section to the pollution
22 control hearings board within 30 days of the department's
23 determination.

24 NEW SECTION. **Sec. 211.** ADMINISTRATIVE ROLE AND ENFORCEMENT BY
25 THE DEPARTMENT. (1) (a) A producer that does not pay fees, register,
26 report, or achieve the PCRC requirements established under this
27 chapter is subject to the penalties provided in this section.

28 (b) A producer responsibility organization that does meet the
29 registration, fee payment, or reporting requirements under this
30 chapter is subject to the provisions provided in section 123 of this
31 act.

32 (2) (a) A producer assessed a penalty pursuant to this chapter
33 must remit the penalty to the producer responsibility organization
34 with which it is registered. A producer responsibility organization
35 must submit aggregated penalty payments comprised of the remitted
36 penalty payments from all producers owing penalties under this
37 chapter that are members of the producer responsibility organization.
38 The producer responsibility organization's aggregated payment may be
39 a single annual payment, paid in quarterly installments, or on an

1 alternative payment schedule arranged subject to the approval of the
2 department. The department may not approve an alternative payment
3 schedule that exceeds a 12-month time frame unless the department
4 determines that an extension is needed due to unforeseen
5 circumstances, such as a public health emergency, state of emergency,
6 or natural disaster.

7 (b) Beginning June 1st of the year following the first year that
8 minimum PCRC requirements apply to a category of PCRC product, and
9 annually thereafter, the department must determine the penalty for
10 the previous calendar year based on the PCRC requirement of the
11 previous calendar year. The department shall calculate the amount of
12 the penalty based upon the amount in pounds in the aggregate of
13 virgin plastic, PCRC plastic, and any other plastic per category used
14 by the producer to produce PCRC products sold or offered for sale in
15 or into Washington, in accordance with the following:

16 (i) (A) Based on data provided in the annual report submitted
17 under section 209 of this act by a producer responsibility
18 organization, the annual penalty amount assessed to a producer must
19 equal the product of both of the following: The total pounds of
20 plastic used per category multiplied by the relevant minimum PCRC
21 plastic target percentage, less the pounds of total plastic
22 multiplied by the percent of PCRC plastic used; multiplied by 20
23 cents.

24 (B) Example: [(Total pounds of plastic used x minimum PCRC
25 plastic target percentage) - (Total pounds of plastic used x PCRC
26 plastic percentage used)] x 20 cents.

27 (ii) For the purposes of (b) (i) of this subsection, both of the
28 following apply:

29 (A) The total pounds of plastic used must equal the sum of the
30 amount of virgin plastic, PCRC plastic, and any other plastic used by
31 the producer, as reported pursuant to section 209 of this act;

32 (B) If the mathematical product calculated pursuant to (b) (i) of
33 this subsection is equal to or less than zero, the department may not
34 assess a penalty.

35 (3) (a) Upon request by a producer responsibility organization,
36 the department must consider granting a reduction of penalties
37 assessed under this section for a producer's failure to achieve PCRC
38 requirements established in this chapter. Penalty reduction requests
39 under this subsection must be submitted to the department by August
40 1st of each year. A producer responsibility organization's request to

1 the department must contain sufficient information described in (b)
2 of this subsection to allow the department to determine whether to
3 grant the request.

4 (b) In determining whether to grant a penalty reduction, the
5 department must consider, at minimum, all of the following factors:

6 (i) Anomalous market conditions;

7 (ii) Disruption in, or lack of supply of, recycled plastics; and

8 (iii) Other factors that have prevented a producer from meeting
9 the minimum PCRC requirements of this chapter.

10 (c) In lieu of or in addition to assessing a penalty under this
11 section, the department may require a producer responsibility
12 organization to submit on behalf of a producer or group of producers
13 a corrective action plan detailing how the producer or producers plan
14 to come into compliance with this chapter.

15 (4) For purposes of determining compliance with the PCRC
16 requirements of this chapter, the department may consider information
17 provided by the producer responsibility organization regarding the
18 date of manufacture of a PCRC product or the container of a PCRC
19 product.

20 (5)(a) A producer or a producer responsibility organization may
21 appeal penalties assessed and orders issued under this chapter to the
22 pollution control hearings board within 30 days of penalty assessment
23 or order issuance.

24 (b) Penalties collected under this section must be deposited in
25 the recycling enhancement account created in RCW 70A.245.100.

26 (6)(a) A city, town, county, or municipal corporation may not
27 implement local recycled content requirements for a PCRC product that
28 is subject to minimum PCRC requirements established in this chapter.

29 (b) A city, town, county, or municipal corporation may establish
30 local purchasing requirements that include recycled content standards
31 that exceed the minimum recycled content requirements established by
32 this chapter for plastic household cleaning product containers and
33 plastic personal care product containers purchased by a city, town,
34 or municipal corporation, or its contractor.

35 (7) In-state distributors, wholesalers, and retail establishments
36 in possession of PCRC products manufactured before the date that PCRC
37 requirements become effective may exhaust their existing stock
38 through sales to the public.

1 NEW SECTION. **Sec. 212.** RULE-MAKING AUTHORITY. The department
2 may adopt rules as necessary to implement, administer, and enforce
3 this chapter.

4 **Sec. 213.** RCW 70A.245.010 and 2021 c 313 s 2 are each amended to
5 read as follows:

6 The definitions in this section apply throughout this chapter
7 unless the context clearly requires otherwise.

8 (1) (~~"Beverage" means beverages identified in (a) through (f) of~~
9 ~~this subsection, intended for human or animal consumption, and in a~~
10 ~~quantity more than or equal to two fluid ounces and less than or~~
11 ~~equal to one gallon:~~

- 12 ~~(a) Water and flavored water;~~
- 13 ~~(b) Beer or other malt beverages;~~
- 14 ~~(c) Wine;~~
- 15 ~~(d) Distilled spirits;~~
- 16 ~~(e) Mineral water, soda water, and similar carbonated soft~~
17 ~~drinks; and~~

18 ~~(f) Any beverage other than those specified in (a) through (e) of~~
19 ~~this subsection, except infant formula as defined in 21 U.S.C. Sec.~~
20 ~~321(z), medical food as defined in 21 U.S.C. Sec. 360ee(b)(3), or~~
21 ~~fortified oral nutritional supplements used for persons who require~~
22 ~~supplemental or sole source nutritional needs due to special dietary~~
23 ~~needs directly related to cancer, chronic kidney disease, diabetes,~~
24 ~~or other medical conditions as determined by the department.~~

25 ~~(2) "Beverage manufacturing industry" means an association that~~
26 ~~represents beverage producers.~~

27 ~~(3))~~ "Condiment packaging" means packaging used to deliver
28 single-serving condiments to customers. Condiment packaging includes,
29 but is not limited to, single-serving packaging for ketchup, mustard,
30 relish, mayonnaise, hot sauce, coffee creamer, salad dressing, jelly,
31 jam, and soy sauce.

32 ~~((4) (a) "Covered product" means an item in one of the following~~
33 ~~categories subject to minimum postconsumer recycled content~~
34 ~~requirements:~~

- 35 ~~(i) Plastic trash bags;~~
- 36 ~~(ii) Household cleaning and personal care products that use~~
37 ~~plastic household cleaning and personal care product containers; and~~
- 38 ~~(iii) Beverages that use plastic beverage containers.~~

1 ~~(b) "Covered product" does not include any type of container or~~
2 ~~bag for which the state is preempted from regulating content of the~~
3 ~~container material or bag material under federal law.~~

4 ~~(5) "Dairy milk" means a beverage that designates milk as the~~
5 ~~predominant (first) ingredient in the ingredient list on the~~
6 ~~container's label.~~

7 ~~(6))~~ (2) "Department" means the department of ecology.

8 ~~((7))~~ (3) "Expanded polystyrene" means blown polystyrene and
9 expanded and extruded foams that are thermoplastic petrochemical
10 materials utilizing a styrene monomer and processed by any number of
11 techniques including, but not limited to, fusion of polymer spheres
12 (expandable bead polystyrene), injection molding, foam molding, and
13 extrusion-blow molding (extruded foam polystyrene).

14 ~~((8))~~ (4) "Food service business" means a business selling or
15 providing food for consumption on or off the premises, and includes
16 full-service restaurants, fast food restaurants, cafes,
17 delicatessens, coffee shops, grocery stores, vending trucks or carts,
18 home delivery services, delivery services provided through an online
19 application, and business or institutional cafeterias.

20 ~~((9))~~ (5) "Food service product" means a product intended for
21 one-time use and used for food or drink offered for sale or use. Food
22 service products include, but are not limited to, containers, plates,
23 bowls, cups, lids, beverage containers, meat trays, deli rounds,
24 utensils, sachets, straws, condiment packaging, clamshells and other
25 hinged or lidded containers, wrap, and portion cups.

26 ~~((10) "Household cleaning and personal care product" means any~~
27 ~~of the following:~~

28 ~~(a) Laundry detergents, softeners, and stain removers;~~

29 ~~(b) Household cleaning products;~~

30 ~~(c) Liquid soap;~~

31 ~~(d) Shampoo, conditioner, styling sprays and gels, and other hair~~
32 ~~care products; or~~

33 ~~(e) Lotion, moisturizer, facial toner, and other skin care~~
34 ~~products.~~

35 ~~(11) "Household cleaning and personal care product manufacturing~~
36 ~~industry" means an association that represents companies that~~
37 ~~manufacture household cleaning and personal care products.~~

38 ~~(12))~~ (6) "Licensee" means a manufacturer of a certified PCRC
39 product or entity who licenses a brand and manufactures a ~~((covered~~
40 ~~product))~~ certified PCRC product under that brand.

1 ~~((13) "Oral nutritional supplement" means a manufactured liquid,~~
2 ~~powder capable of being reconstituted, or solid product that contains~~
3 ~~a combination of carbohydrates, proteins, fats, fiber, vitamins, and~~
4 ~~minerals intended to supplement a portion of a patient's nutrition~~
5 ~~intake.~~

6 ~~(14) "Plastic beverage container" means a bottle or other rigid~~
7 ~~container that is capable of maintaining its shape when empty,~~
8 ~~comprised solely of one or multiple plastic resins designed to~~
9 ~~contain a beverage. Plastic beverage container does not include:~~

10 ~~(a) Refillable beverage containers, such as containers that are~~
11 ~~sufficiently durable for multiple rotations of their original or~~
12 ~~similar purpose and are intended to function in a system of reuse;~~

13 ~~(b) Rigid plastic containers or plastic bottles that are or are~~
14 ~~used for medical devices, medical products that are required to be~~
15 ~~sterile, nonprescription and prescription drugs, or dietary~~
16 ~~supplements as defined in RCW 82.08.0293;~~

17 ~~(c) Bladders or pouches that contain wine; or~~

18 ~~(d) Liners, caps, corks, closures, labels, and other items added~~
19 ~~externally or internally but otherwise separate from the structure of~~
20 ~~the bottle or container.~~

21 ~~(15)(a) "Plastic household cleaning and personal care product~~
22 ~~container" means a bottle, jug, or other rigid container with a neck~~
23 ~~or mouth narrower than the base, and:~~

24 ~~(i) A minimum capacity of eight fluid ounces or its equivalent~~
25 ~~volume;~~

26 ~~(ii) A maximum capacity of five fluid gallons or its equivalent~~
27 ~~volume;~~

28 ~~(iii) That is capable of maintaining its shape when empty;~~

29 ~~(iv) Comprised solely of one or multiple plastic resins; and~~

30 ~~(v) Containing a household cleaning or personal care product.~~

31 ~~(b) "Plastic household cleaning and personal care product~~
32 ~~container" does not include:~~

33 ~~(i) Refillable household cleaning and personal care product~~
34 ~~containers, such as containers that are sufficiently durable for~~
35 ~~multiple rotations of their original or similar purpose and are~~
36 ~~intended to function in a system of reuse; and~~

37 ~~(ii) Rigid plastic containers or plastic bottles that are medical~~
38 ~~devices, medical products that are required to be sterile, and~~
39 ~~nonprescription and prescription drugs, dietary supplements as~~
40 ~~defined in RCW 82.08.0293, and packaging used for those products.~~

1 ~~(16))~~ (7) "Plastic trash bag" means a bag that is made of
2 noncompostable plastic, is at least 0.70 mils thick, and is designed
3 and manufactured for use as a container to hold, store, or transport
4 materials to be discarded or recycled, and includes, but is not
5 limited to, a garbage bag, recycling bag, lawn or leaf bag, can liner
6 bag, kitchen bag, or compactor bag. "Plastic trash bag" does not
7 include any compostable bags meeting the requirements of chapter
8 70A.455 RCW.

9 ~~((17) "Plastic trash bag))~~ (8) "Certified PCRC product
10 manufacturing industry" means an association that represents
11 companies that manufacture ~~((plastic trash bags))~~ a certified PCRC
12 product.

13 ~~((18))~~ (9) "Postconsumer recycled content" means the content of
14 a ~~((covered product))~~ certified PCRC product made of recycled
15 materials derived specifically from recycled material generated by
16 households or by commercial, industrial, and institutional facilities
17 in their role as end users of a product that can no longer be used
18 for its intended purpose. "Postconsumer recycled content" includes
19 returns of material from the distribution chain.

20 ~~((19))~~ (10) (a) "Producer" means the following person
21 responsible for compliance with minimum postconsumer recycled content
22 requirements under this chapter for a ~~((covered product sold, offered~~
23 ~~for sale, or distributed in or into this state:~~

24 ~~(i) If the covered product is sold under the manufacturer's own~~
25 ~~brand or lacks identification of a brand, the producer is the person~~
26 ~~who manufactures the covered product;~~

27 ~~(ii) If the covered product is manufactured by a person other~~
28 ~~than the brand owner, the producer is the person who is the licensee~~
29 ~~of a brand or trademark under which a covered product is sold,~~
30 ~~offered for sale, or distributed in or into this state, whether or~~
31 ~~not the trademark is registered in this state, unless the~~
32 ~~manufacturer or brand owner of the covered product has agreed to~~
33 ~~accept responsibility under this chapter; or~~

34 ~~(iii) If there is no person described in (a) (i) and (ii) of this~~
35 ~~subsection over whom the state can constitutionally exercise~~
36 ~~jurisdiction, the producer is the person who imports or distributes~~
37 ~~the covered product in or into the state)) certified product sold,~~
38 ~~offered for sale, or distributed in or into this state:~~

39 (i) If the product is sold in or with packaging under the brand
40 of the product manufacturer or is sold in packaging that lacks

1 identification of a brand, the producer of the packaging is the
2 person that manufactures the product;

3 (ii) If the product is sold under a retail brand, the producer is
4 the retail brand owner;

5 (iii) If the product is manufactured by a person other than the
6 brand owner, the producer of the packaging is the person that is the
7 licensee of a brand or trademark under which a packaged item is used
8 in a commercial enterprise, sold, offered for sale, or distributed in
9 or into this state, whether or not the trademark is registered in
10 this state;

11 (iv) If there is no person described in (a) (i), (ii), or (iii) of
12 this subsection within the United States, the producer is the person
13 who imports the product into the United States for use in a
14 commercial enterprise that sells, offers for sale, or distributes the
15 product in this state; or

16 (v) A person who would be considered a "producer" of a certified
17 product sold, offered for sale, or distributed in or into this state,
18 as defined in (a) (i) through (iv) of this subsection, can designate
19 another responsible producer for that certified product if another
20 person agrees to accept responsibility and has registered as the
21 producer responsible for that certified product under this chapter.

22 (b) "Producer" does not include:

23 (i) Government ((agencies)) entities, municipalities, or other
24 political subdivisions of the state; or

25 (ii) Registered 501(c)(3) charitable organizations and 501(c)(4)
26 social welfare organizations (~~;~~ ~~or~~

27 ~~(iii) De minimis producers that annually sell, offer for sale,~~
28 ~~distribute, or import in or into the country for sale in Washington:~~

29 ~~(A) Less than one ton of a single category of plastic beverage~~
30 ~~containers, plastic household cleaning and personal care containers,~~
31 ~~or plastic trash bags each year; or~~

32 ~~(B) A single category of a covered product that in aggregate~~
33 ~~generates less than \$1,000,000 each year in revenue)).~~

34 ((+20)) (11) (a) "Retail establishment" means any person,
35 corporation, partnership, business, facility, vendor, organization,
36 or individual that sells or provides merchandise, goods, or materials
37 directly to a customer.

38 (b) "Retail establishment" includes, but is not limited to, food
39 service businesses, grocery stores, department stores, hardware
40 stores, home delivery services, pharmacies, liquor stores,

1 restaurants, catering trucks, convenience stores, or other retail
2 stores or vendors, including temporary stores or vendors at farmers
3 markets, street fairs, and festivals.

4 ~~((21))~~ (12) (a) "Utensil" means a product designed to be used by
5 a consumer to facilitate the consumption of food or beverages,
6 including knives, forks, spoons, cocktail picks, chopsticks, splash
7 sticks, and stirrers.

8 (b) "Utensil" does not include plates, bowls, cups, and other
9 products used to contain food or beverages.

10 (13) "Certified postconsumer recycled content product" or
11 "certified PCRC product" means:

12 (a) Plastic household cleaning products or personal care
13 products, as defined in section 201 of this act, that are pesticide
14 products regulated by the federal insecticide, fungicide, and
15 rodenticide act, 7 U.S.C. Sec. 136 et seq., that are in direct
16 contact with the regulated product, and that are excluded from the
17 requirements of chapters 70A.--- (the new chapter created in section
18 601 of this act) and 70A.--- RCW (the new chapter created in section
19 602 of this act);

20 (b) Plastic trash bags; and

21 (c) Plastic plant pots and trays.

22 (14) "Plant pot or tray" means a single-use or durable container,
23 material transport tray, or water collection tray used to grow,
24 contain, cultivate, display, or transport plants or soil.

25 **Sec. 214.** RCW 70A.245.020 and 2021 c 313 s 3 are each amended to
26 read as follows:

27 (1) ~~((a) Beginning January 1, 2023, producers that offer for~~
28 ~~sale, sell, or distribute in or into Washington:~~

29 ~~(i) Beverages other than wine in 187 milliliter plastic beverage~~
30 ~~containers and dairy milk in plastic beverage containers must meet~~
31 ~~minimum postconsumer recycled content requirements established under~~
32 ~~subsection (4) of this section; and~~

33 ~~(ii) Plastic trash bags must meet minimum postconsumer recycled~~
34 ~~content requirements established under subsection (6) of this~~
35 ~~section.~~

36 ~~(b) Beginning January 1, 2025, producers that offer for sale,~~
37 ~~sell, or distribute in or into Washington household cleaning and~~
38 ~~personal care products in plastic household cleaning and personal~~

1 ~~care product containers must meet minimum postconsumer recycled~~
2 ~~content as required under subsection (5) of this section.~~

3 ~~(c) Beginning January 1, 2028, producers that offer for sale,~~
4 ~~sell, or distribute in or into Washington wine in 187 milliliter~~
5 ~~plastic beverage containers or dairy milk in plastic beverage~~
6 ~~containers must meet minimum postconsumer recycled content as~~
7 ~~required under subsection (4) of this section.~~

8 ~~(2) (a) On or before April 1, 2022, and annually thereafter, a~~
9 ~~producer that offers for sale, sells, or distributes in or into~~
10 ~~Washington covered products must register with the department~~
11 ~~individually or through a third-party representative registering on~~
12 ~~behalf of a group of producers.~~

13 ~~(b) The registration information submitted to the department~~
14 ~~under this section must include a list of the producers of covered~~
15 ~~products and the brand names of the covered products represented in~~
16 ~~the registration submittal. Beginning April 1, 2024, for plastic~~
17 ~~trash bags and plastic beverage containers other than wine in 187~~
18 ~~milliliter plastic beverage containers and dairy milk in plastic~~
19 ~~beverage containers, April 1, 2026, for plastic household and~~
20 ~~personal care product containers, and April 1, 2029, for wine in 187~~
21 ~~milliliter plastic beverage containers and dairy milk, a producer may~~
22 ~~submit registration information at the same time as the information~~
23 ~~submitted through the annual reporting required under RCW~~
24 ~~70A.245.030.~~

25 ~~(3) (a) By January 31, 2022, and every January 31st thereafter,~~
26 ~~the department must:~~

27 ~~(i) Prepare an annual workload analysis for public comment that~~
28 ~~identifies the annual costs it expects to incur to implement,~~
29 ~~administer, and enforce this section and RCW 70A.245.030 through~~
30 ~~70A.245.060 and 70A.245.090 (1), (2), and (4), including rule making,~~
31 ~~in the next fiscal year for each category of covered products;~~

32 ~~(ii) Determine a total annual fee payment by producers or their~~
33 ~~third-party representatives for each category of covered products~~
34 ~~that is adequate to cover, but not exceed, the workload identified in~~
35 ~~(a)(i) of this subsection;~~

36 ~~(iii) Until rules are adopted under (a)(iv) of this subsection,~~
37 ~~issue a general order to all entities falling within the definition~~
38 ~~of producer. The department must equitably determine fee amounts for~~
39 ~~an individual producer or third-party representatives within each~~
40 ~~category of covered product;~~

1 ~~(iv) By 2024, adopt rules to equitably determine annual fee~~
2 ~~payments by producers or their third-party representatives within~~
3 ~~each category of covered product. Once such rules are adopted, the~~
4 ~~general order issued under (a) (iii) of this subsection is no longer~~
5 ~~effective; and~~

6 ~~(v) Send notice to producers or their third-party representatives~~
7 ~~of fee amounts due consistent with either the general order issued~~
8 ~~under (a) (iii) of this subsection or rules adopted under (a) (iv) of~~
9 ~~this subsection.~~

10 ~~(b) The department must:~~

11 ~~(i) Apply any remaining annual payment funds from the current~~
12 ~~year to the annual payment for the coming year, if the collected~~
13 ~~annual payment exceeds the department's costs for a given year; and~~

14 ~~(ii) Increase annual payments for the coming year to cover the~~
15 ~~department's costs, if the collected annual payment was less than the~~
16 ~~department's costs for a given year.~~

17 ~~(c) By April 1, 2022, and every April 1st thereafter, producers~~
18 ~~or their third-party representative must submit a fee payment as~~
19 ~~determined by the department under (a) of this subsection.~~

20 ~~(4) A producer of a beverage in a plastic beverage container must~~
21 ~~meet the following annual minimum postconsumer recycled content~~
22 ~~percentage on average for the total quantity of plastic beverage~~
23 ~~containers, by weight, that are sold, offered for sale, or~~
24 ~~distributed in or into Washington by the producer effective:~~

25 ~~(a) For beverages except wine in 187 milliliter plastic beverage~~
26 ~~containers and dairy milk:~~

27 ~~(i) January 1, 2023, through December 31, 2025: No less than 15~~
28 ~~percent postconsumer recycled content plastic by weight;~~

29 ~~(ii) January 1, 2026, through December 31, 2030: No less than 25~~
30 ~~percent postconsumer recycled content plastic by weight; and~~

31 ~~(iii) On and after January 1, 2031: No less than 50 percent~~
32 ~~postconsumer recycled content plastic by weight.~~

33 ~~(b) For wine in 187 milliliter plastic beverage containers and~~
34 ~~dairy milk:~~

35 ~~(i) January 1, 2028, through December 31, 2030: No less than 15~~
36 ~~percent postconsumer recycled content plastic by weight;~~

37 ~~(ii) January 1, 2031, through December 31, 2035: No less than 25~~
38 ~~percent postconsumer recycled content plastic by weight; and~~

39 ~~(iii) On and after January 1, 2036: No less than 50 percent~~
40 ~~postconsumer recycled content plastic by weight.~~

1 ~~(5))~~) A producer of household cleaning ~~((and))~~ or plastic
2 personal care products that are pesticide products regulated by the
3 federal insecticide, fungicide, and rodenticide act, 7 U.S.C. Sec.
4 136 et seq. that are in direct contact with the regulated product and
5 that are excluded from the requirements of chapters 70A.--- (the new
6 chapter created in section 601 of this act) and 70A.--- RCW (the new
7 chapter created in section 602 of this act) in plastic containers
8 must meet the following annual minimum postconsumer recycled content
9 percentage on average for the total quantity of plastic containers,
10 by weight, that are sold, offered for sale, or distributed in or into
11 Washington by the producer effective:

12 (a) January 1, 2025, through December 31, 2027: No less than 15
13 percent postconsumer recycled content plastic by weight;

14 (b) January 1, 2028, through December 31, 2030: No less than 25
15 percent postconsumer recycled content plastic by weight; and

16 (c) On and after January 1, 2031: No less than 50 percent
17 postconsumer recycled content plastic by weight.

18 ~~((6))~~ (2) A producer of plastic trash bags must meet the
19 following annual minimum postconsumer recycled content percentage on
20 average for the total quantity of plastic trash bags, by weight, that
21 are sold, offered for sale, or distributed in or into Washington by
22 the producer effective:

23 (a) January 1, 2023, through December 31, 2024: No less than 10
24 percent postconsumer recycled content plastic by weight;

25 (b) January 1, 2025, through December 31, 2026: No less than 15
26 percent postconsumer recycled content plastic by weight; and

27 (c) On and after January 1, 2027: No less than 20 percent
28 postconsumer recycled content plastic by weight.

29 ~~((7)(a) Beginning January 1, 2024, or when rule making is~~
30 ~~complete, whichever is sooner, the department may, on an annual basis~~
31 ~~on January 1st,))~~ (3) A producer of plastic plant pots or trays must

32 meet the following annual minimum postconsumer recycled content
33 percentage on average for the total quantity of covered products, by
34 weight, that are sold, offered for sale, or distributed in or into
35 Washington by the producer effective:

36 (a) January 1, 2026, through December 31, 2030: No less than 30
37 percent postconsumer recycled content plastic by weight;

38 (b) On and after January 1, 2031: No less than 80 percent
39 postconsumer recycled content plastic by weight.

1 (4) (a) By October 31st of each year, the department may review
2 and determine for the following year whether to adjust the minimum
3 postconsumer recycled content percentage (~~((required for a type of~~
4 ~~container or product or category of covered products))~~) pursuant to
5 subsection (~~((4), (5), or (6))~~) (1), (2), or (3) of this section. The
6 department's review may be initiated by the department or at the
7 petition of a producer or (~~(a covered product)~~) the certified PCRC
8 product manufacturing industry not more than once annually. Petitions
9 for review and adjustment must be made to the department by June 30th
10 of the year prior to the year in which the adjustment would apply.
11 When submitting a petition, producers or (~~(a producer)~~) the certified
12 PCRC product manufacturing industry must provide necessary
13 information that will allow the department to make a determination
14 under (b) of this subsection.

15 (b) In making a determination pursuant to this subsection, the
16 department must consider, at a minimum, all of the following factors:

17 (i) Changes in market conditions, including supply and demand for
18 postconsumer recycled content plastics, collection rates, and bale
19 availability both domestically and globally;

20 (ii) Recycling rates;

21 (iii) The availability of recycled plastic suitable to meet the
22 minimum postconsumer recycled content requirements pursuant to
23 subsection (~~((4), (5), or (6))~~) (1), (2), or (3) of this section,
24 including the availability of high quality recycled plastic (~~(, and~~
25 ~~food-grade recycled plastic from recycling programs))~~;

26 (iv) The capacity of recycling or processing infrastructure;

27 (v) The technical feasibility of achieving the minimum
28 postconsumer recycled content requirements in covered products that
29 are regulated under 21 C.F.R., chapter I, subchapter G, 7 U.S.C. Sec.
30 136, 15 U.S.C. Sec. 1471-1477, 49 C.F.R. Sec. 178.33b, 49 C.F.R. Sec.
31 173, 40 C.F.R. Sec. 152.10, 15 U.S.C. Sec. 1261-1278, 49 U.S.C. 5101
32 et seq., 49 C.F.R. Sec. 178.509, 49 C.F.R. Sec. 179.522, 49 C.F.R.
33 Sec. 178.600-609, and other federal laws; and

34 (vi) The progress made by producers in achieving the goals of
35 this section.

36 (c) Under (a) of this subsection (~~(~~

37 ~~(i) The department may not adjust the minimum postconsumer~~
38 ~~recycled content requirements above the minimum postconsumer recycled~~
39 ~~content percentages for the year under review required pursuant to~~
40 ~~subsection (4), (5), or (6) of this section.~~

1 ~~(ii) For plastic household cleaning and personal care product~~
2 ~~containers, the department may not adjust the minimum postconsumer~~
3 ~~recycled content requirements above the minimum postconsumer recycled~~
4 ~~content percentages for the year under review required pursuant to~~
5 ~~subsection (5) of this section or below a minimum of 10 percent.~~

6 ~~(iii) For plastic trash bags)),~~ the department may not adjust the
7 minimum postconsumer recycled content requirements above the minimum
8 postconsumer recycled content percentages for the year under review
9 required pursuant to subsection ~~((6))~~ (1), (2), or (3) of this
10 section or below the minimum percentage required in subsection
11 ~~((6))~~ (1)(a), (2)(a), or (3)(a) of this section.

12 (d) A producer or the certified PCRC product manufacturing
13 industry ~~((for a covered product))~~ may appeal a decision by the
14 department to adjust postconsumer recycled content percentages under
15 (a) of this subsection or to temporarily exclude covered products
16 from minimum postconsumer recycled content requirements ~~((under~~
17 ~~subsection (8) of this section))~~ to the pollution control hearings
18 board within 30 days of the department's determination.

19 ~~((8))~~ (5) The department must temporarily exclude from minimum
20 postconsumer recycled content requirements for the upcoming year any
21 types of covered products in plastic containers for which a producer
22 annually demonstrates to the department by December 31st of a given
23 year that the achievement of postconsumer recycled content
24 requirements in the container material is not technically feasible in
25 order to comply with health or safety requirements of federal law,
26 including the federal laws specified in subsection (7)(b)(v) of this
27 section. A producer must continue to register and report consistent
28 with the requirements of this chapter for covered products
29 temporarily excluded from minimum postconsumer recycled content
30 requirements under this subsection.

31 ~~((9))~~ (6) A producer that does not achieve the postconsumer
32 recycled content requirements established under this section or does
33 not comply with the labeling requirements established in chapter
34 70A.245 RCW is subject to penalties established in RCW 70A.245.040.

35 ~~((10))~~ (7)(a) A city, town, county, or municipal corporation
36 may not implement local recycled content requirements for ~~((a covered~~
37 ~~product that is))~~ certified PCRC products that are subject to minimum
38 postconsumer recycled content requirements established in this
39 section.

1 (b) A city, town, county, or municipal corporation may establish
2 local purchasing requirements that include recycled content standards
3 that exceed the minimum recycled content requirements established by
4 this chapter for ~~((plastic household cleaning and personal care
5 product containers or plastic trash bags))~~ certified PCRC products
6 purchased by a city, town, or municipal corporation, or its
7 contractor.

8 ~~((11) The department may enter into contracts for the services
9 required to implement this chapter and related duties of the
10 department.~~

11 ~~(12))~~ (8) In-state distributors, wholesalers, and retailers in
12 possession of ~~((covered products))~~ certified PCRC products
13 manufactured before the date that postconsumer recycled content
14 requirements become effective may exhaust their existing stock
15 through sales to the public.

16 **Sec. 215.** RCW 70A.245.030 and 2021 c 313 s 4 are each amended to
17 read as follows:

18 (1) ~~((a) Except as provided in (b) and (c) of this subsection,
19 beginning April 1, 2024, each producer of covered products,
20 individually or through a third party representing a group of
21 producers, must provide an annual report to the department that
22 includes the amount in pounds of virgin plastic and the amount in
23 pounds of postconsumer recycled content by resin type used for each
24 category of covered products that are sold, offered for sale, or
25 distributed in or into Washington state, including the total
26 postconsumer recycled content resins as a percentage of total weight.
27 The report must be submitted in a format and manner prescribed by the
28 department. A manufacturer may submit national data allocated on a
29 per capita basis for Washington to approximate the information
30 required in this subsection if the producer or third-party
31 representative demonstrates to the department that state level data
32 are not available or feasible to generate.~~

33 ~~(b) The requirements of (a) of this subsection apply to household
34 cleaning and personal care products in plastic containers beginning
35 April 1, 2026.~~

36 ~~(c) The requirements of (a) of this subsection apply to wine in
37 187 milliliter plastic beverage containers and dairy milk in plastic
38 beverage containers beginning April 1, 2029.~~

1 ~~(d) The department must post the information reported under this~~
2 ~~subsection on its website, except as provided in subsection (2) of~~
3 ~~this section)) A plastic trash bag producer must maintain a
4 certificate of compliance, conducted by a third-party certification
5 entity, stating that a plastic trash bag is in compliance with the
6 labeling requirements of RCW 70A.245.060 and the postconsumer
7 recycled content requirements of RCW 70.245.020. A producer of other
8 certified PCRC products must maintain a certificate of compliance
9 stating that the certified PCRC product is in compliance with the
10 postconsumer recycled content requirements of RCW 70A.245.020. A
11 third-party certification entity must be an independent, accredited
12 (ISO/IEC 17065) certifying body.~~

13 (2) A producer ~~((that submits information or records to the~~
14 ~~department under this chapter may request that the information or~~
15 ~~records be made available only for the confidential use of the~~
16 ~~department, the director, or the appropriate division of the~~
17 ~~department. The director of the department must give consideration to~~
18 ~~the request and if this action is not detrimental to the public~~
19 ~~interest and is otherwise in accordance with the policies and~~
20 ~~purposes of chapter 43.21A RCW, the director must grant the request~~
21 ~~for the information to remain confidential as authorized in RCW~~
22 ~~43.21A.160)) shall develop a compliance certificate by the dates on
23 which the postconsumer recycled content requirements in RCW
24 70A.245.020 take effect for the producer's certified PCRC products.~~

25 (3) If compliance with minimum recycled content requirements is
26 achieved through an adjustment made pursuant to RCW 70A.245.020(4),
27 the certificate must state the specific basis upon which the
28 exemption is claimed.

29 (4)(a) The certificate of compliance must be signed by an
30 authorized official of the producer.

31 (b) The certificate of compliance must be kept on file by the
32 producer for three years from the date of the last sale or
33 distribution by the producer.

34 (c) A producer must furnish a certificate of compliance to the
35 department upon request within 60 days.

36 (d) Requests from a member of the public for any certificate of
37 compliance must be made in writing to the department and must be
38 specific as to the certified PCRC product information requested. The
39 department must respond to requests from a member of the public under
40 this subsection within 90 days.

1 (e) If manufacturers are required under any other state statute,
2 including chapter 70A.222 RCW, to provide a certificate of
3 compliance, one certificate may be developed containing all required
4 information.

5 (f) If the producer of the certified PCRC product reformulates or
6 creates a new certified PCRC product, the producer shall develop an
7 amended or new certificate of compliance for the reformulated or new
8 certified PCRC product.

9 **Sec. 216.** RCW 70A.245.040 and 2021 c 313 s 5 are each amended to
10 read as follows:

11 ~~(1) ((a) A producer that does not meet the minimum postconsumer~~
12 ~~recycled content requirements pursuant to RCW 70A.245.020 is subject~~
13 ~~to a penalty pursuant to this section. Beginning June 1st of the year~~
14 ~~following the first year that minimum postconsumer recycled product~~
15 ~~content requirements apply to a category of covered product, the~~
16 ~~penalty must be calculated consistent with subsection (2) of this~~
17 ~~section unless a penalty reduction or corrective action plan has been~~
18 ~~approved pursuant to subsection (3) of this section.~~

19 ~~(b) A producer that is assessed a penalty pursuant to this~~
20 ~~section may pay the penalty to the department in one payment, in~~
21 ~~quarterly installments, or arrange an alternative payment schedule~~
22 ~~subject to the approval of the department, not to exceed a 12-month~~
23 ~~payment schedule unless the department determines an extension is~~
24 ~~needed due to unforeseen circumstances, such as a public health~~
25 ~~emergency, state of emergency, or natural disaster.~~

26 ~~(2) Beginning June 1st of the year following the first year that~~
27 ~~minimum postconsumer recycled product content requirements apply to a~~
28 ~~category of covered product, and annually thereafter, the department~~
29 ~~shall determine the penalty for the previous calendar year based on~~
30 ~~the postconsumer recycled content requirement of the previous~~
31 ~~calendar year. The department shall calculate the amount of the~~
32 ~~penalty based upon the amounts in pounds in the aggregate of virgin~~
33 ~~plastic, postconsumer recycled content plastic, and any other plastic~~
34 ~~per category used by the producer to produce covered products sold or~~
35 ~~offered for sale in or into Washington state, in accordance with the~~
36 ~~following:~~

37 ~~(a) (i) The annual penalty amount assessed to a producer must~~
38 ~~equal the product of both of the following: The total pounds of~~
39 ~~plastic used per category multiplied by the relevant minimum~~

1 ~~postconsumer recycled plastic target percentage, less the pounds of~~
2 ~~total plastic multiplied by the percent of postconsumer recycled~~
3 ~~plastic used; multiplied by 20 cents.~~

4 ~~(ii) Example: [(Total pounds of plastic used x minimum~~
5 ~~postconsumer recycled plastic target percentage) - (Total pounds of~~
6 ~~plastic used x postconsumer recycled plastic percentage used)] x 20~~
7 ~~cents.~~

8 ~~(b) For the purposes of (a) of this subsection, both of the~~
9 ~~following apply:~~

10 ~~(i) The total pounds of plastic used must equal the sum of the~~
11 ~~amount of virgin plastic, postconsumer recycled content plastic, and~~
12 ~~any other plastic used by the producer, as reported pursuant to RCW~~
13 ~~70A.245.030.~~

14 ~~(ii) If the product calculated pursuant to (a) of this subsection~~
15 ~~is equal to or less than zero, the department may not assess a~~
16 ~~penalty.~~

17 ~~(3) (a) (i) The department shall consider granting a reduction of~~
18 ~~penalties assessed pursuant to this section for the purpose of~~
19 ~~meeting the minimum postconsumer recycled content requirements~~
20 ~~required pursuant to RCW 70A.245.020.~~

21 ~~(ii) In determining whether to grant the reduction pursuant to~~
22 ~~(a) (i) of this subsection, the department shall consider, at a~~
23 ~~minimum, all of the following factors:~~

24 ~~(A) Anomalous market conditions;~~

25 ~~(B) Disruption in, or lack of supply of, recycled plastics; and~~

26 ~~(C) Other factors that have prevented a producer from meeting the~~
27 ~~requirements.~~

28 ~~(b) In lieu of or in addition to assessing a penalty under this~~
29 ~~section, the department may require a producer to submit a corrective~~
30 ~~action plan detailing how the producer plans to come into compliance~~
31 ~~with RCW 70A.245.020.~~

32 ~~(4) For the purposes of determining compliance with the~~
33 ~~postconsumer recycled content requirements of this chapter, the~~
34 ~~department may consider the date of manufacture of a covered product~~
35 ~~or the container of a covered product.~~

36 ~~(5) A producer shall pay the penalty assessed pursuant to this~~
37 ~~section, as applicable, based on the information reported to the~~
38 ~~department as required under RCW 70A.245.030 in the form and manner~~
39 ~~prescribed by the department.~~

1 ~~(6))~~ (a) The department may assess a civil penalty to a producer
2 in violation of the requirements of RCW 70A.245.020, 70A.245.030, or
3 70A.245.060 in the amount of up to \$2,000 for the first violation of
4 this chapter, up to \$5,000 for the second violation of this chapter,
5 and up to \$10,000 for the third and any subsequent violation of RCW
6 70A.245.020, 70A.245.030, or 70A.245.060.

7 (b) A specific violation is deemed to have occurred upon the sale
8 of noncompliant product by stock-keeping unit number or unique item
9 number. The repeated sale of the same noncompliant product by stock-
10 keeping unit number or unique item number is considered a single
11 violation.

12 (2) In addition to the penalties authorized under subsection (1)
13 of this section, the department may prohibit the sale of any
14 certified PCRC products for which a manufacturer has failed to
15 respond to a request by the department for a certificate of
16 compliance within 60 days.

17 (3) For the purposes of determining compliance with the
18 postconsumer recycled content requirements of this chapter, the
19 department may consider the date of manufacture of a certified PCRC
20 product.

21 (4) A producer may appeal the penalty assessed under this section
22 to the pollution control hearings board within 30 days of assessment.

23 ~~((7))~~ (5) Penalties collected under this section must be
24 deposited in the recycling enhancement account created in RCW
25 70A.245.100.

26 **Sec. 217.** RCW 70A.245.090 and 2021 c 313 s 12 are each amended
27 to read as follows:

28 ~~(1) ((The department may conduct audits and investigations for~~
29 ~~the purpose of ensuring compliance with RCW 70A.245.020 and~~
30 ~~70A.245.040 based on the information reported under RCW 70A.245.030.~~

31 ~~(2) The department shall annually publish a list of registered~~
32 ~~producers of covered products and associated brand names, their~~
33 ~~compliance status, and other information the department deems~~
34 ~~appropriate on the department's website.~~

35 ~~(3))~~ To assist regulated parties with the requirements specified
36 under RCW 70A.245.070 and 70A.245.080, the department:

37 (a) Must prepare and post on its website information regarding
38 the prohibitions on the sale and distribution of expanded polystyrene

1 products as specified under RCW 70A.245.070 and restrictions on the
2 provision of optional serviceware under RCW 70A.245.080;

3 (b) For education and outreach to help implement RCW 70A.245.070
4 and 70A.245.080, may develop culturally appropriate and translated
5 educational materials and resources for the state's diverse ethnic
6 populations from existing materials used by local jurisdictions and
7 other states.

8 ~~((4))~~ (2) The department may adopt rules as necessary to
9 administer, implement, and enforce this chapter.

10 **Sec. 218.** RCW 70A.245.100 and 2021 c 313 s 13 are each amended
11 to read as follows:

12 The recycling enhancement account is created in the custody of
13 the state treasurer. All penalties collected by the department
14 pursuant to RCW 70A.245.040 ~~((and))~~, 70A.245.050, and sections 123,
15 211, and 319 must be deposited in the account. Only the director of
16 the department or the director's designee may authorize expenditures
17 from the account. The account is subject to the allotment procedures
18 under chapter 43.88 RCW, but an appropriation is not required for
19 expenditures. Expenditures from the account may be used by the
20 department only for providing grants to local governments for the
21 purpose of supporting local solid waste and financial assistance
22 programs.

23 **Sec. 219.** RCW 70A.245.120 and 2021 c 313 s 15 are each amended
24 to read as follows:

25 (1) Subject to the availability of amounts appropriated for this
26 specific purpose prior to January 1, 2028, the department shall
27 contract with a research university or an independent third-party
28 consultant to study the plastic resin markets for all of the
29 following:

30 (a) Analyzing market conditions and opportunities in the state's
31 recycling industry for meeting the minimum postconsumer recycled
32 content requirements for ~~((covered products))~~ certified PCRC products
33 pursuant to RCW 70A.245.020 and 70A.245.030 for products subject to
34 minimum postconsumer recycled content requirements under chapter
35 70A.--- RCW (the new chapter created in section 601 of this act); and

36 (b) Determining the data needs and tracking opportunities to
37 increase the transparency and support of a more effective, fact-based
38 public understanding of the recycling industry.

1 (2) If funding is provided pursuant to subsection (1) of this
2 section and the department undertakes the study, the study must be
3 completed by May 1, 2029. The requirements of this section may be
4 satisfied through a needs assessment as described in section 105(6)
5 of this act.

6 (3) This section expires July 1, 2029.

7 **Sec. 220.** RCW 70A.245.060 and 2021 c 313 s 7 are each amended to
8 read as follows:

9 (1) Beginning January 1, 2023, producers shall label each package
10 containing plastic trash bags sold, offered for sale, or distributed
11 in or into Washington with:

12 (a) The name of the producer and the city, state, and country
13 where the producer is located, which may be designated as the
14 location of the producer's corporate headquarters, and, beginning
15 January 1, 2025, the percentage of postconsumer recycled content that
16 the plastic trash bag contains; or

17 (b) A uniform resource locator or quick response code to an
18 internet website that contains the information required pursuant to
19 (a) of this subsection.

20 (2)(a) The provisions of subsection (1) of this section do not
21 apply to a plastic bag that is designed and manufactured to hold,
22 store, or transport dangerous waste or biomedical waste.

23 (b) For the purposes of this subsection:

24 (i) "Biomedical waste" means any waste defined as that term under
25 RCW 70A.228.010; and

26 (ii) "Dangerous waste" means any waste defined as dangerous
27 wastes under RCW 70A.300.010.

28 **Part Three**

29 **Reimbursable Deposit Program Standards (Beverage Container Deposit** 30 **Program Provisions)**

31 NEW SECTION. **Sec. 301.** INTENT. (1) The legislature finds that
32 the department of ecology was directed, through an independent
33 consultant, to study how plastic packaging is managed in the state,
34 to assess various policy options, and to provide recommendations to
35 achieve certain goals, which included:

36 (a) Plastic packaging sold into the state is 100 percent
37 recyclable, reusable, or compostable by January 1, 2025;

1 (b) Plastic packaging sold into the state incorporates at least
2 20 percent postconsumer recycled content by January 1, 2025; and

3 (c) Plastic packaging is reduced when possible and optimized to
4 meet the need for it.

5 (2) The legislature also finds that the study recommendations
6 included establishing an extended producer responsibility policy for
7 all consumer packaging and paper with a framework that makes
8 producers responsible for achieving specific management and
9 environmental outcomes for the consumer packaging they supply into
10 Washington state. In addition, the legislature finds that the study
11 recommends that a deposit return system is an effective way for
12 producers to meet outcomes required by an extended producer
13 responsibility framework.

14 (3) The legislature further intends that packaging materials be
15 recycled or reused through extended producer responsibility programs,
16 including a deposit return system for qualifying beverage containers.
17 It is the intent of the legislature that extended producer
18 responsibility programs be implemented by and for producers of
19 plastic packaging and other material types so that the design and
20 management of their packaging is accomplished in a manner that
21 ensures minimal environmental impact, involves producers from design
22 concept to end-of-life management, and incentivizes innovation and
23 industry stewardship to minimize environmental impacts.

24 NEW SECTION. **Sec. 302.** DEFINITIONS. The definitions in this
25 section apply throughout this chapter unless the context clearly
26 requires otherwise.

27 (1) "Dealer" means a retail establishment, as that term is
28 defined in section 102 of this act, that engages in the sale of
29 beverages in qualifying beverage containers.

30 (2) "Department" means the department of ecology.

31 (3) "Deposit return system" means a beverage container redemption
32 program that pays a per-unit refund value to consumers for qualifying
33 beverage containers and collects and processes qualifying beverage
34 containers as described in section 307 of this act.

35 (4) "Distributor" means every person or entity who engages in the
36 sale of beverages in beverage containers to a dealer in this state,
37 including any manufacturer or importer who engages in such sales, and
38 dealers who self-distribute their own brands.

1 (5) "Distributor responsibility organization" means a cooperative
2 association as defined in chapter 23.86 RCW, or an alternative
3 structure as approved by the department, that is designated by a
4 group of distributors representing the majority of beverages sold in
5 qualifying beverage containers in the state, to develop and carry out
6 the activities required of distributors by this chapter.

7 (6) "Qualifying beverage container" means beverage containers as
8 described in section 307(2) of this act.

9 NEW SECTION. **Sec. 303.** RELATIONSHIP WITH CHAPTER 70A.--- RCW
10 (THE NEW CHAPTER CREATED IN SECTION 601 OF THIS ACT). (1)(a) As an
11 alternative to satisfying their compliance obligation under chapter
12 70A.--- RCW (the new chapter created in section 601 of this act) for
13 qualifying beverage containers, a producer responsibility
14 organization and the department may not consider qualifying beverage
15 containers to be covered products for purposes of chapter 70A.--- RCW
16 (the new chapter created in section 601 of this act) upon a
17 distributor responsibility organization's establishment and operation
18 of a deposit return system for the qualifying beverage containers
19 described in section 307(2) of this act.

20 (b) A producer of qualifying beverage containers subject to the
21 requirements of this chapter must satisfy postconsumer recycled
22 content requirements established in chapter 70A.--- RCW (the new
23 chapter created in section 602 of this act) through limited
24 participation in a producer responsibility organization only for
25 purposes of chapter 70A.--- RCW (the new chapter created in section
26 602 of this act).

27 (2) This chapter, relating to the establishment of a deposit
28 return system, establishes requirements for the management of the
29 containers described in section 307(2) of this act.

30 (3)(a) The requirements of sections 304 through 319 of this act
31 do not apply to qualifying beverage containers unless and until a
32 distributor responsibility organization, other than a single
33 distributor independently complying with the requirements of a
34 distributor responsibility organization in this chapter, is
35 established and files a written notice with the department at, or
36 prior to, the time of producer responsibility organization
37 registration under chapter 70A.--- RCW (the new chapter created in
38 section 601 of this act), that the distributor responsibility
39 organization will establish and operate a deposit return system.

1 (b) Upon the receipt of the written notice by the department
2 under (a) of this subsection, all qualifying beverage containers of
3 all producers subject to the requirements of chapter 70A.--- RCW (the
4 new chapter created in section 601 of this act) cease to be
5 considered covered products for purposes of chapter 70A.--- RCW (the
6 new chapter created in section 601 of this act) and are instead
7 subject to the requirements of this chapter.

8 (c) Nothing in this section excludes packaging associated with
9 qualifying beverage containers, other than the qualifying beverage
10 container itself and any closures or labels, from the requirements of
11 chapter 70A.--- RCW (the new chapter created in section 601 of this
12 act).

13 (4) If a distributor responsibility organization, other than a
14 single distributor independently fulfilling the requirements of a
15 distributor responsibility organization, is approved by the
16 department and operates a deposit return system as described in
17 section 307 of this act, all qualifying beverage containers are
18 included in the deposit return system and all requirements of this
19 chapter apply to the distributors of qualifying beverage containers.

20 NEW SECTION. **Sec. 304.** DISTRIBUTOR RESPONSIBILITY ORGANIZATION
21 DUTIES. (1) Beginning July 1, 2024, or four months after a
22 distributor responsibility organization is approved by the
23 department, whichever is later, each distributor that offers for
24 sale, sells, or distributes in or into Washington beverages in
25 qualifying beverage containers must join a distributor responsibility
26 organization or independently carry out all duties and requirements
27 of a distributor responsibility organization described in this
28 chapter including, but not limited to, the following: (a) Providing a
29 convenient bulk bag drop-off system as described in section 307(5) of
30 this act that accepts all qualifying beverage containers in the same
31 bag, and at no cost to consumers; (b) providing the same number, and
32 geographic distribution, of drop-off locations as required of a
33 distributor responsibility organization; (c) paying to consumers the
34 refund value of qualifying beverage containers; (d) meeting the
35 performance targets described in section 306 of this act; (e) paying
36 all applicable performance penalties; and (f) fulfilling all
37 reporting requirements in this chapter.

38 (2) To qualify as a distributor responsibility organization,
39 other than an individual distributor independently fulfilling the

1 duties required of a distributor responsibility organization, and be
2 approved by the department as described in section 305 of this act, a
3 distributor responsibility organization must demonstrate to the
4 department's satisfaction that its initial membership represents the
5 majority of beverages in qualifying beverage containers sold or made
6 available for sale in the state. Distributors may not be initial
7 members of more than one distributor responsibility organization
8 registering with the department. Distributors that have not joined a
9 distributor responsibility organization, or that do not independently
10 fulfill the duties required of a distributor responsibility
11 organization, may not sell or supply beverages in qualifying beverage
12 containers after October 1, 2024, or 120 days after a distributor
13 responsibility organization is approved by the department, whichever
14 is later, in or into Washington. Any distributor that operates in
15 violation of this requirement is subject to penalties and damages as
16 described in sections 305 and 307 of this act.

17 (3) A distributor responsibility organization registering with
18 the department must submit with its registration the following:

19 (a) A list of its member distributors and their brands of
20 beverages in qualifying beverage containers; and

21 (b) The total gross sales volume of beverages in qualifying
22 beverage containers distributed by its members in Washington during
23 the preceding year, representing, to the satisfaction of the
24 department, a majority of such sales in the state.

25 (4) Until a distributor responsibility organization begins to
26 submit annual reports as specified in section 309 of this act, by
27 January 15th of each year a distributor responsibility organization
28 must submit the following data for the prior calendar year:

29 (a) A list of its member distributors and their brands of
30 beverages in qualifying beverage containers; and

31 (b) The number of qualifying beverage containers sold or made
32 available for sale in the state, by material category and size. A
33 distributor responsibility organization may rely on member reporting
34 for the reporting requirements in this section.

35 (5) By June 30th of the fiscal year of initial distributor
36 responsibility organization registration and every June 30th
37 thereafter, a distributor responsibility organization registered with
38 the department must submit an annual payment to the department to
39 fund the costs to implement, administer, and enforce this chapter,
40 including rule making.

1 (6) Beginning July 1, 2026, or within 180 days of the first
2 adoption of rules relating to this chapter, whichever is later, a
3 distributor responsibility organization approved by the department as
4 described in section 305 of this act must submit a plan to the
5 department that meets the requirements of a deposit return system as
6 specified in section 307 of this act.

7 (7) A distributor responsibility organization registered with the
8 department must implement a deposit return system, as specified in
9 section 307 of this act, by July 1, 2027, or within one year of first
10 adoption of rules relating to this chapter, whichever is later.

11 (8) A distributor responsibility organization registered with the
12 department may require deposits to be collected to offset the refund
13 value up to 60 days prior to the start of the deposit return system.

14 (9) A distributor responsibility organization that submits
15 information or records to the department under this chapter may
16 request that the information or records be made available only for
17 the confidential use of the department, the director, or the
18 appropriate division of the department. The director of the
19 department must give consideration to the request, and if the
20 director determines that this action is not detrimental to the public
21 interest and is otherwise in accordance with the policies and
22 purposes of chapter 43.21A RCW, the director must grant the request
23 for the information to remain confidential as authorized in RCW
24 43.21A.160.

25 (10) A distributor responsibility organization may not distribute
26 or otherwise disseminate funds from unclaimed refunds to members of
27 the distributor cooperative, or alternative structure approved by the
28 department, as a dividend, and shall report on this requirement
29 annually in the manner described in section 309 of this act.

30 (11) A manufacturer distributor producing a de minimis quantity
31 of beverages in qualifying beverage containers may alternatively
32 comply with the requirements of this chapter by operating an
33 independent refund program approved by the department, as described
34 in section 312 of this act.

35 NEW SECTION. **Sec. 305.** DEPARTMENT DUTIES. (1) The department
36 shall implement, administer, and enforce this chapter. The department
37 may adopt rules to implement, administer, and enforce this chapter.

38 (2) By April 1st of each year after a distributor responsibility
39 organization has notified the department of its intent to implement a

1 deposit return system under section 303 of this act, the department
2 must:

3 (a) Prepare a workload analysis that, as narrowly, efficiently,
4 and cost-effectively as possible, identifies the annual costs to
5 implement, administer, and enforce this chapter, including rule
6 making, in the next fiscal year;

7 (b) Determine a total annual fee payment to be paid by a
8 distributor responsibility organization to cover, but not exceed, the
9 costs of implementing, administering, and enforcing this chapter
10 identified through the workload analysis; and

11 (c) Send notice to a distributor responsibility organization of
12 fee amounts due.

13 (3)(a) The department shall review new, updated, and revised
14 registrations submitted by a distributor responsibility organization
15 as required in section 304 of this act. The department shall not
16 approve the registration of a distributor responsibility organization
17 whose initial membership at the time of registration does not
18 represent a majority of beverages in qualifying beverage containers
19 sold or made available for sale in Washington the prior year. The
20 department shall:

21 (i) Approve the registration of a distributor responsibility
22 organization whose initial membership at the time of registration
23 represents, to the department's satisfaction, a majority of beverages
24 in qualifying beverage containers sold or made available for sale in
25 Washington the prior year; and

26 (ii) Make a determination, when applicable, as to whether the
27 distributor responsibility organization's plan, plan update, or plan
28 revision meets the criteria established in section 307 of this act.

29 (b) The department shall notify the distributor responsibility
30 organization of:

31 (i) The department's approval of a plan, if the plan provides for
32 a program that meets the requirements of section 307 of this act; or

33 (ii) The department's disapproval of a plan, and its reasons for
34 disapproval, if the department determines the plan does not meet the
35 requirements of section 307 of this act.

36 (c) If a distributor responsibility organization's plan is not
37 approved by the department, the distributor responsibility
38 organization must submit a new or revised plan within 60 days after
39 receipt of the department's letter of disapproval.

1 (4) The department shall receive the annual reports submitted by
2 a distributor responsibility organization, or individual distributor
3 independently complying with the requirements of this chapter,
4 pursuant to section 309 of this act and:

5 (a) Ensure the reports contain the items required in sections 304
6 and 309 of this act; and

7 (b) Make public the annual reporting required of the distributor
8 responsibility organization registered by the department, and any
9 individual distributor independently complying with the requirements
10 of this chapter, as described in sections 304 and 309 of this act.

11 (5)(a) In order to determine compliance with the provisions of
12 section 306(2) of this act, the department may, within six months of
13 the date that the department receives a report as described in
14 section 309 of this act, review the records of a distributor
15 responsibility organization specifically related to the accuracy of
16 the redemption rate. The records specifically related to the accuracy
17 of the redemption rate do not include financial details of a
18 distributor responsibility organization.

19 (b) If in the course of a review described in (a) of this
20 subsection the department determines that an audit of a distributor
21 responsibility organization is necessary to verify the redemption
22 rate, the department shall require the distributor responsibility
23 organization to retain an independent audit firm to determine the
24 accuracy of the redemption rate. The scope of the audit must be
25 limited to records specifically related to the accuracy of the
26 redemption rate. A distributor responsibility organization that is
27 subject to review shall pay the costs of the audit. The audit must be
28 limited to the records described in (a) of this subsection.

29 (6) In lieu of the payment described in section 304(5) of this
30 act and subsection (2) of this section, after October 1, 2024, or 120
31 days after a distributor responsibility organization is approved by
32 the department, whichever is later, a distributor independently
33 carrying out the duties and requirements of a distributor
34 responsibility organization described in this chapter shall pay a
35 registration fee to the department equal to 10 cents per qualifying
36 beverage container until such time as a distributor responsibility
37 organization begins operating a deposit return system.

38 (7)(a) After July 1, 2027, or the date in which a distributor
39 responsibility organization begins operating a deposit return system,
40 whichever is later, and after notification of noncompliance from the

1 department and a 60-day cure period, the department shall
2 administratively impose a civil penalty to any distributor who fails
3 to participate in a distributor responsibility organization as
4 specified in section 304 of this act, or fails to otherwise comply
5 with the requirements of this chapter by independently carrying out
6 the duties of a distributor responsibility organization described in
7 this chapter, which shall be at least 15 cents per qualifying
8 beverage container sold or made available for sale by that
9 distributor in the state, or \$10,000, whichever is greater.

10 (b) Any distributor who incurs a penalty under this section may
11 appeal the penalty to the pollution control hearings board
12 established in chapter 43.21B RCW.

13 (c) Fees paid under subsection (6) of this section must be
14 deposited into the deposit return organization program account
15 created in section 318 of this act and used by the department to
16 offset costs of implementing the requirements in this chapter. The
17 department shall direct and store any excess funds to make available
18 to the recycling revenue augmentation fund described in section 317
19 of this act.

20 (d) Penalties levied under this section must be deposited into
21 the deposit return organization program account created in section
22 318 of this act and be used to support the duties of the department
23 described in this section.

24 NEW SECTION. **Sec. 306.** REUSE AND RECYCLING PERFORMANCE
25 REQUIREMENTS. (1) To meet the reuse and recycling performance
26 requirements established in this section, a distributor
27 responsibility organization must:

28 (a) Demonstrate that all qualifying beverage containers are
29 designed to be reusable or recyclable by January 1, 2031, in
30 accordance with criteria established by the department; and

31 (b) Calculate the reuse sales rate and the redemption rate of
32 qualifying beverage containers and provide the verification to the
33 department as part of the annual reporting requirements. The reuse
34 sales rate is the number of units in reusable packaging sold in a
35 year. For materials reclaimed under a deposit return system, the
36 calculation point for the redemption rate is the number of qualifying
37 beverage containers redeemed statewide by the distributor
38 responsibility organization divided by the number of qualifying

1 beverage containers sold in the state by members of the distributor
2 responsibility organization.

3 (2) At a minimum, each plan must achieve the following
4 performance requirements:

5 (a) By 2028, a minimum of 60 percent of all qualifying beverage
6 containers supplied into the state are redeemed for reuse or
7 recycling through the deposit return system;

8 (b) By 2031, a minimum of 80 percent of all qualifying beverage
9 containers supplied into the state are redeemed for reuse or
10 recycling through the deposit return system; and

11 (c) By December 31, 2031, sales of beverages in reusable
12 packaging must reach at least one percent of all qualifying beverage
13 containers.

14 NEW SECTION. **Sec. 307.** DEPOSIT RETURN SYSTEM. (1) The
15 department shall make a determination of approval of a distributor
16 responsibility organization's plan, or plan update, to operate a
17 deposit return system for qualifying beverage containers based on the
18 criteria in this section:

19 (a) The distributor responsibility organization's registration
20 with the department meets the requirements described in sections 304
21 and 305 of this act;

22 (b) The distributor responsibility organization presents a plan
23 that imposes a refund value of 10 cents for all qualifying beverage
24 containers covered under the plan;

25 (c) The plan or plan update includes a method for paying the
26 refund value and collecting qualifying beverage containers from
27 consumers, including a plan to provide convenient bulk, bagged
28 returns, and a plan to accept direct, sorted returns at its
29 processing facilities for an additional refund value premium if the
30 containers are returned by organizations certified as nonprofit
31 organizations pursuant to section 501(c)(3) of the internal revenue
32 code that are approved by the distributor responsibility organization
33 and serve very low-income individuals who rely on regular container
34 refunds through the deposit return system as a source of daily funds;

35 (d) Includes in the plan a process for annually reporting to the
36 department regarding the names, locations, return volume, cost per
37 container for each partnership, and other services provided through
38 the partnerships described in (c) of this subsection; and

1 (e) Includes a description of how the distributor responsibility
2 organization and the deposit return system will coordinate with other
3 recycling systems and processes, including exploring the potential
4 for colocating facilities as described in section 308 of this act,
5 establishing policies to facilitate the redemption of materials from
6 other recycling pathways as described in section 314 of this act, and
7 providing clear communications about which products are included in
8 the deposit return system as described in section 313 of this act.

9 (2) A deposit return system must include the following qualifying
10 beverage containers:

11 (a) Except as provided in (b) of this subsection, any individual,
12 separate, sealed glass, metal, or plastic bottle or can, except for a
13 carton, foil pouch, drink box, or metal container that requires a
14 tool to be opened, that contains any beverage intended for human
15 consumption and in a quantity of greater than four ounces and less
16 than or equal to one gallon.

17 (b) The requirements of this chapter do not apply to beverages
18 with dairy milk as the first ingredient or infant formula.

19 (3) If a deposit return system is approved by the department,
20 then for the duration of the plan, all qualifying beverage containers
21 sold or offered for sale in the state of Washington:

22 (a) Must carry a 10 cent refund value;

23 (b) Must be registered at least annually with the distributor
24 responsibility organization by the producer or distributor, including
25 information on the brand, size, container material type or types,
26 beverage type, bar code or stock keeping unit information, and total
27 number of containers of each type, size, and brand sold in the state
28 of Washington;

29 (c) Must be sold by a distributor, importer, or producer that is
30 a member of the distributor responsibility organization submitting
31 the deposit return system plan for qualifying beverage containers or
32 an individual distributor independently carrying out the duties
33 required of a distributor responsibility organization described in
34 this chapter; and

35 (d) Must carry a clear and conspicuous marking indicating the
36 refund value of the container in the state of Washington. This
37 requirement may be satisfied through the abbreviation "WARV" or any
38 other standard abbreviation approved by the department. A beverage
39 container for wine may satisfy the requirement to indicate the refund
40 value of the container through the use of a quick response code.

1 (4) (a) In lieu of any other penalties for not achieving the
2 performance criteria in section 306 of this act, should the
3 redemption rate performance requirements described in section 306 of
4 this act not be met, the distributor responsibility organization
5 shall annually calculate the number of containers representing the
6 difference between the redemption rate of qualifying beverage
7 containers and the redemption rate performance requirements described
8 in section 306(2) (a) and (b) of this act, and pay a penalty that is
9 equal to 10 cents times the number of containers representing the
10 difference.

11 (b) At the sole discretion of the department, if the requirements
12 in (a) of this subsection result in a penalty to be paid by the
13 distributor responsibility organization, the department may
14 alternatively identify priority areas for additional drop-off access
15 to be provided, and the department and the distributor responsibility
16 organization may agree to provide additional access accordingly. If
17 agreement is not reached, the financial penalty in (a) of this
18 subsection must be paid.

19 (c) There is no penalty assessed on the distributor
20 responsibility organization related to the reuse performance
21 requirements described in section 306 of this act.

22 (5) The distributor responsibility organization must, at its own
23 cost, provide a convenient bulk drop-off option for bagged qualifying
24 beverage containers at geographically dispersed locations in
25 Washington that sell beverages in qualifying beverage containers, are
26 located a convenient distance from a dealer, or are located at a
27 publicly owned facility. The distributor responsibility organization
28 may not charge customers for this drop-off service and must credit
29 the cost of any required bag purchase back to the customer when the
30 bag is processed. If drop-off bags are made of plastic film, bags
31 must have a minimum 50 percent recycled content and the distributor
32 responsibility organization must be able to demonstrate that waste
33 film from bags is being recycled in the best commercially available
34 manner.

35 (6) Upon launch of the deposit return system, the distributor
36 responsibility organization shall provide at least 270 bag drop sites
37 around the state, with at least one drop site located in each county,
38 and at least one drop site located in each island community served by
39 the Washington state ferries system, distributed by county
40 proportional to the volume of qualifying beverage containers sold in

1 each county. The distributor responsibility organization shall
2 calculate a drop-off capacity formula that is equal to the ratio of
3 drop-off locations to total sales of beverages in qualifying beverage
4 containers represented by the initial deployment of 270 sites, and
5 the number of beverages in qualifying beverage containers sold the
6 year prior to the year the distributor responsibility organization
7 begins operating a deposit return system in Washington. Within two
8 years of the date in which the distributor responsibility
9 organization begins operating a deposit return system, the
10 distributor responsibility organization shall add an additional 10
11 drop-off locations. The locations of the additional 10 drop-off sites
12 must be agreed upon by the distributor responsibility organization
13 and the department, in consultation with the consumer convenience
14 advisory council established in section 310 of this act, balancing
15 the need for consumer convenience and access in rural counties, small
16 cities, and underserved areas, and data regarding where beverages in
17 qualifying beverage containers are sold. Five years after the
18 distributor responsibility organization is required to provide 280
19 drop-off locations, and every five years after that, the distributor
20 responsibility organization shall calculate an updated number of
21 drop-off locations required using the drop-off capacity formula. If
22 this calculation determines that the distributor responsibility
23 organization needs to add additional drop-off sites to reach the
24 number required by the capacity formula, the distributor
25 responsibility organization shall provide the department with a list
26 of proposed new locations, equal to the number determined by the
27 drop-off capacity formula, based on input from the consumer
28 convenience advisory council established in section 310 of this act,
29 consideration of consumer convenience, and data regarding where
30 beverage sales occur. The distributor responsibility organization
31 shall make the new drop-off locations available within three years.
32 Drop-off locations may be located at dealers, or any other retail
33 establishment, publicly owned facility, or any other location
34 convenient to consumers but nothing in this chapter may be
35 interpreted to create a legal obligation on the part of dealers
36 either to accept returned qualifying beverage containers or allow a
37 drop-off location to be sited at a dealer. Local governments shall
38 coordinate with the distributor responsibility organization to
39 identify opportunities for the siting of necessary collection
40 infrastructure including, where appropriate, on city and county

1 properties, to help ensure convenient access across the state. All
2 sites must be paid for in full by the distributor responsibility
3 organization. The distributor responsibility organization may provide
4 an alternative access plan for any county that has not reached the
5 required number of drop-off locations and the department may approve
6 an alternative access plan for that county if it deems the
7 alternative access plan for that county to be similarly convenient to
8 consumers as the proportional drop site requirement. The distributor
9 responsibility organization shall pay for the cost of these
10 facilities.

11 (7) Unless otherwise specified in a distributor responsibility
12 organization's bylaws or in a contract between a distributor
13 responsibility organization and an individual distributor arranging
14 specifically for the collection of beverage containers sold for the
15 purpose of consumption on premises, any manufacturer, distributor, or
16 importer that fails to pay to a distributor responsibility
17 organization the refund value of qualifying beverage containers
18 included in this chapter is liable to the distributor responsibility
19 organization for treble the unpaid refund value and treble the
20 collection costs incurred by the distributor responsibility
21 organization for any beverage containers that were sold without the
22 refund value of the container being remitted to the distributor
23 responsibility organization.

24 (8) The distributor responsibility organization is not required
25 to accept or pay refunds for:

26 (a) Beverage containers visibly containing or contaminated by a
27 substance other than water, residue of the original contents, or
28 ordinary dust;

29 (b) Beverage containers that are crushed, broken, or damaged to
30 the extent that the brand appearing on the container cannot be
31 identified; or

32 (c) Any beverage container for which the distributor
33 responsibility organization has reasonable grounds to believe was not
34 purchased through the state's deposit return system or for which a
35 refund has already been given.

36 (9) If the distributor responsibility organization uses automated
37 industrial counting equipment to count containers returned in bulk
38 and credit refund values to consumers, the distributor responsibility
39 organization may use commercially viable methods of counting, and

1 shall have a customer service system, which serves as the remedy to
2 resolve complaints and discrepancies.

3 (10) The distributor responsibility organization may create
4 reasonable terms and conditions for participation in the program.

5 (11) For the first five years in which a deposit return system is
6 operated by a distributor responsibility organization in this state,
7 a distributor responsibility organization shall remit \$15,000,000 by
8 December 31st of each year for the first five years in which it
9 operates a deposit return system, to the department of commerce's
10 recycling revenue augmentation fund created in section 317 of this
11 act. If the first year of operations of a deposit return system
12 begins after January 1st, the payment amount shall be prorated in
13 accordance with the portion of the year in which the deposit return
14 system is operating. These payments constitute the full financial
15 obligation of the distributor responsibility organization to the
16 recycling revenue augmentation fund created in section 317 of this
17 act.

18 (12)(a) All retailers over 5,000 square feet and with qualifying
19 beverage unit sales greater than 100,000 annually must install a
20 self-serve kiosk, provided at no charge by the distributor
21 responsibility organization, to facilitate the printing of redemption
22 vouchers, pay the value of redemption vouchers to customers, and must
23 sell bags for redemption at the price established by the distributor
24 responsibility organization. The distributor responsibility
25 organization shall reimburse dealers for the value of valid vouchers
26 redeemed by customers. Dealers may additionally offer a voucher
27 redemption option for funds to be used as store credit. There is no
28 other cost or requirement for retailers associated with container
29 redemption.

30 (b) Storage and drop-off containers sited for the purposes of
31 fulfilling the requirements of this section are considered mobile
32 containers regardless of whether they have wheels, have electrical
33 power, or are affixed to the site.

34 (c) The distributor responsibility organization shall establish a
35 geographically distributed network of processing facilities across
36 the state for the purpose of counting, crediting, sorting, and
37 compacting bagged container returns and facilitating the program for
38 organizations certified as nonprofit organizations pursuant to
39 section 501(c)(3) of the internal revenue code as described in
40 subsection (1)(c) of this section.

1 NEW SECTION. **Sec. 308.** PARTICIPATION IN THE FEASIBILITY STUDY.

2 In order to facilitate the potential for shared drop-off locations
3 with other depots or return pathways provided by producer
4 responsibility organizations, the distributor responsibility
5 organization must participate in the feasibility study described in
6 section 505 of this act. The distributor responsibility
7 organization's participation in the feasibility study is limited to
8 helping identify potential partnerships and shared drop-off locations
9 between the distributor responsibility organization and producer
10 responsibility organizations, and the distributor responsibility
11 organization retains sole discretion to determine how to achieve the
12 required number and geographic distribution of drop-off locations
13 required of the distributor responsibility organization.

14 NEW SECTION. **Sec. 309.** ANNUAL REPORTING ON ACTIVITIES. (1)

15 Beginning July 1, 2028, and each July 1st thereafter, a distributor
16 responsibility organization must submit an annual report to the
17 department for the preceding calendar year of plan implementation.

18 (2) Each annual report must include the following information:

19 (a) A list of its member distributors and their brands of
20 beverages in qualifying beverage containers;

21 (b) The number of qualifying beverage containers supplied into
22 the state in aggregate, and by material categories of glass, metal,
23 and plastic, by members of the distributor responsibility
24 organization;

25 (c) The number of beverages in reusable containers that were
26 sold;

27 (d) The number of qualifying beverage containers redeemed in
28 aggregate, and by material categories of glass, metal, and plastic,
29 through the deposit return system operated by the distributor
30 responsibility organization;

31 (e) A list and explanation of the beverages in qualifying
32 beverage containers supplied or sold in Washington by members of the
33 distributor responsibility organization and brands of qualifying
34 beverage containers participating in the deposit return system;

35 (f) The final destinations of recycled material managed by the
36 program;

37 (g) The total budget for the distributor responsibility
38 organization;

1 (h) Total value of unclaimed refunds used by the distributor
2 responsibility organization to support operations; and

3 (i) The annual redemption rate and reuse sales rate.

4 (3) The reporting described in subsection (2)(b) of this section
5 does not include containers that are sold to dealers or other
6 entities outside of the state.

7 (4) A distributor responsibility organization may rely on member
8 reporting for reporting requirements in this chapter.

9 (5) Included in its annual report, a distributor responsibility
10 organization shall provide verification from a third-party financial
11 auditing firm confirming the total budget for the distributor
12 responsibility organization, the total value of unclaimed refunds,
13 and a verification that funds represented by unclaimed refunds were
14 not distributed to members of the cooperative as a dividend.

15 NEW SECTION. **Sec. 310.** CONSUMER CONVENIENCE ADVISORY COUNCIL.

16 (1) In coordination with the department, the distributor
17 responsibility organization shall establish the consumer convenience
18 advisory council within six months following initial registration of
19 a distributor responsibility organization.

20 (2) The consumer convenience advisory council must include the
21 following members:

22 (a) A representative of the distributor responsibility
23 organization charged with securing and making available drop-off
24 locations;

25 (b) Two representatives of a grocery association, or individual
26 grocers with more than 10 retail locations over 5,000 square feet in
27 size in the state;

28 (c) Two representatives of a city association, or individual city
29 government, with one representing a city with a population over
30 200,000 people;

31 (d) Two representatives of a county association, or individual
32 county government, with one representing an urban county and one
33 representing a rural county; and

34 (e) An environmental organization.

35 (3) Any additional representatives deemed by the distributor
36 responsibility organization to provide important insight into
37 assisting with the deployment of drop-off locations may be approved
38 by the department.

1 (4) The consumer convenience advisory council shall work with the
2 distributor responsibility organization to identify potential bag
3 drop-off locations and achieve the consumer convenience required in
4 section 307 of this act.

5 (5) The consumer convenience advisory council shall meet at least
6 twice per year and more frequently at the request of the distributor
7 responsibility organization.

8 NEW SECTION. **Sec. 311.** CONSUMER CONVENIENCE ASSESSMENT. (1) In
9 the fifth full year in which a distributor responsibility
10 organization operates a deposit return system in the state, the
11 department, in partnership with the distributor responsibility
12 organization, and in consultation with the consumer convenience
13 advisory council established in section 310 of this act, shall
14 conduct an assessment of consumer convenience, identifying any
15 barriers to achieving the number of drop-off locations required by
16 the consumer convenience requirements in section 306 of this act and
17 any other potential barriers to consumer convenience or
18 participation.

19 (2) If the required number of drop-off locations has not been
20 achieved, or if the system's redemption rate is significantly lower
21 than the redemption rate performance targets described in section 307
22 of this act, the department shall make policy recommendations
23 regarding ways to increase consumer convenience and enhance
24 performance.

25 NEW SECTION. **Sec. 312.** INDEPENDENT REFUND PROGRAM. (1) A
26 distributor that is also a manufacturer may submit a plan to the
27 department to operate an independent refund program for beverages in
28 qualifying beverage containers produced by the manufacturer, and the
29 department may approve the plan if it meets all of the following
30 criteria:

31 (a) The manufacturer sells or distributes no more than 10,000
32 beverages in qualifying beverage containers per year in the state;

33 (b) The beverages are packaged in reusable qualifying beverage
34 containers;

35 (c) The manufacturer offers a refund value for the containers
36 that is greater than the refund value for containers redeemed by the
37 distributor responsibility organization;

1 (d) The department determines that the plan includes return
2 pathways and options that are convenient for consumers returning
3 their brand of beverage containers covered by the plan for a refund;
4 and

5 (e) The plan includes annual reporting requirements that, in the
6 department's determination, are sufficient to measure the performance
7 of the independent refund program.

8 (2) If the department approves an independent refund program plan
9 as described in subsection (1) of this section, the distributor
10 manufacturer operating a plan approved by the department is not
11 subject to the requirements of distributors independently complying
12 with the requirements in this chapter, as described in section 304(1)
13 of this act and elsewhere in this chapter.

14 (3) Reusable containers sold through a program approved through
15 this section count towards the reusable container performance
16 requirements described in section 306 of this act.

17 (4) The department may revoke plan approval for a manufacturer
18 distributor operating an independent refund program at any time if,
19 in its sole discretion, the department determines that the program is
20 not providing sufficient performance or not meeting the consumer
21 convenience requirements submitted with its plan.

22 NEW SECTION. **Sec. 313.** EDUCATION AND OUTREACH ACTIVITIES. (1)
23 Each plan implemented by a distributor responsibility organization
24 under this chapter must include education and outreach activities
25 that effectively reach diverse residents, are accessible, are clear,
26 and support the achievement of the performance requirements described
27 in section 306 of this act. To implement the education and outreach
28 activities described in the plan, a distributor responsibility
29 organization must, at minimum:

30 (a) Develop and provide outreach and educational materials,
31 resources, and campaigns about the program to be used by the
32 distributor responsibility organization, dealers, governmental
33 entities, and nonprofit organizations. The materials, resources, and
34 campaigns developed under this section to encourage participation in
35 the deposit return system must, at minimum:

36 (i) Provide information to residents on recycling and reuse
37 practices related to the deposit return system, including where and
38 how to redeem qualifying beverage containers, and what happens to
39 containers once they are returned; and

1 (ii) Education and engagement with users of the deposit return
2 system to reduce the rate of inbound contamination or unwanted
3 materials;

4 (b) Use media channels that may include, but are not limited to,
5 print publications, radio, television, the internet, and online
6 streaming services to promote the program statewide;

7 (c) Use consistent and easy to understand messaging and education
8 statewide, with the aim of reducing resident confusion regarding the
9 recyclability, reuse, compostability, and end-of-life management
10 options available for different qualifying beverage containers;

11 (d) Be conceptually, linguistically, and culturally accurate for
12 the communities served and tailored to effectively reach the state's
13 diverse populations, including through meaningful consultation with
14 overburdened communities and vulnerable populations;

15 (e) Establish a process for answering customer questions and
16 resolving customer concerns;

17 (f) Provide a map of each area where drop-off and other
18 collection services for qualifying beverage containers are available
19 on its website; and

20 (g) Evaluate the effectiveness of education and outreach efforts
21 for the purposes of making progress toward performance requirements
22 established in this chapter.

23 (2) A distributor responsibility organization may coordinate with
24 government entities that choose to participate in carrying out
25 resident education and outreach regarding the deposit return system.

26 NEW SECTION. **Sec. 314.** PAYMENT OF REFUND VALUE FOR COLLECTION
27 USING OTHER INFRASTRUCTURE. (1) The distributor responsibility
28 organization must accept, and must pay the full refund value for, any
29 qualifying beverage containers returned to the distributor
30 responsibility organization by material recovery facilities,
31 governmental entities, and other processing facilities if all of the
32 following criteria are met:

33 (a) The qualifying beverage containers have been collected and
34 separated in accordance with standards established by the distributor
35 responsibility organization and are delivered directly to a
36 distributor responsibility organization processing facility;

37 (b) In order to avoid redeeming containers not purchased in the
38 state, the material recovery facilities, governmental entities, and
39 other processing facilities may only handle or process materials from

1 this state, or provide third-party auditing and verification
2 sufficient to confirm that the containers being returned were
3 recovered only from material originating in the state; and

4 (c) The containers are separated by material type, not
5 contaminated with other materials, and are not crushed, broken, or
6 otherwise substantially manipulated into a shape other than the shape
7 of the container at the time of purchase.

8 (2) Nothing in this chapter requires a person, including a
9 business, to use the infrastructure provided by a deposit return
10 system created under this chapter or precludes the disposal for
11 recycling of qualifying beverage containers via curbside recycling
12 collection systems.

13 NEW SECTION. **Sec. 315.** CIVIL PENALTIES. (1) Upon notice of a
14 significant violation of the deposit return system plan or
15 performance requirements of this chapter, and after a cure period of
16 at least 60 days, the department may assess a civil penalty of at
17 least \$200 per violation per day, but no more than \$500 per violation
18 per day.

19 (2) The department shall make its best efforts to work with the
20 distributor responsibility organization to remedy issues without the
21 use of penalties and make reasonable accommodations when the nature
22 of the violation is significantly outside of the distributor
23 responsibility organization's control.

24 (3) Notwithstanding the performance penalty described in section
25 307 of this act, a civil penalty may not be assessed based on the
26 redemption rate or reuse sales rate performance requirements.

27 NEW SECTION. **Sec. 316.** RECYCLING REVENUE AUGMENTATION FUND. (1)
28 The department of commerce shall administer the recycling revenue
29 augmentation fund, created in section 317 of this act, which shall,
30 for the first five years in which a distributor responsibility
31 organization operates a deposit return system in the state:

32 (a) Collect funds from a distributor responsibility organization
33 as described in section 307(11) of this act; and

34 (b) Beginning January 1st of the year following the year in which
35 a distributor responsibility organization first operates a deposit
36 return system in the state, and each January 1st for the following
37 four years, accept requests annually from local governments, or
38 operators of curbside or drop-off recycling programs in the state, or

1 both, to receive funds from the recycling revenue augmentation fund
2 to offset revenue losses from the previous year from scrap material
3 being diverted to the deposit return system. These requests must
4 include third-party audited financial data demonstrating any revenue
5 losses from the value of scrap materials diverted from curbside or
6 drop-off recycling programs by a deposit return system, less any
7 decreased operating costs from not collecting, hauling, processing,
8 or landfilling the material, less any new revenue provided through
9 other provisions within this chapter that offsets revenue losses, and
10 less any material weight losses represented by the operator serving
11 fewer accounts. For local government and publicly operated curbside
12 or drop-off recycling programs, the government entity's annual audit
13 may satisfy the audited data requirement of this section if the
14 department of commerce determines that it is sufficient to verify the
15 claim. Each request must include the average total tons of glass,
16 plastic, and metal for that applicant for the three years preceding
17 the operation of a deposit return system in the state, compared to
18 the total tons of glass, plastic, and metal material for the year for
19 which funds are requested.

20 (2) The department of commerce shall:

21 (a) Evaluate all requests annually and determine the validity of
22 the data submitted by each requester;

23 (b) Reject requests that do not include sufficient or
24 sufficiently accurate data;

25 (c) Distribute funds to operators of curbside and drop-off
26 recycling systems proportionally, based on valid requests and
27 available revenue in the fund; and

28 (d) If the total amount of requests deemed valid by the
29 department of commerce is less than the amount of funds available
30 each year, less the department of commerce's program funding
31 described in subsection (3) of this section, the department of
32 commerce shall remit the remaining balance back to the distributor
33 responsibility organization, with the exception of funds generated by
34 section 305(7)(c) of this act, which shall remain in the recycling
35 revenue augmentation fund to support future requests. If funds
36 generated by section 305(7)(c) of this act remain in the recycling
37 revenue augmentation fund upon the conclusion of the program, they
38 shall be deposited into the deposit return organization program
39 account created in section 318 of this act and shall be used to
40 support the department of commerce's requirements in this chapter.

1 (3) The department of commerce may use funds provided for in
2 section 307(11) of this act for each of the five years the program
3 operates to cover costs associated with implementing and
4 administering the recycling revenue augmentation fund.

5 NEW SECTION. **Sec. 317.** ACCOUNT FOR RECYCLING REVENUE
6 AUGMENTATION FUND. The recycling revenue augmentation fund is created
7 in the custody of the state treasurer. All receipts received by the
8 department of commerce under section 316 of this act must be
9 deposited in the account. Expenditures from the account may be used
10 by the department of commerce only for implementing and administering
11 the requirements of section 316 of this act. Only the director of the
12 department of commerce or the director's designee may authorize
13 expenditures from the account. The account is subject to the
14 allotment procedures under chapter 43.88 RCW, but an appropriation is
15 not required for expenditures.

16 NEW SECTION. **Sec. 318.** DEPOSIT RETURN ORGANIZATION PROGRAM
17 ACCOUNT. The deposit return organization program account is created
18 in the custody of the state treasurer. All receipts received by the
19 department under this chapter must be deposited in the account.
20 Expenditures from the account may be used by the department only for
21 implementing, administering, and enforcing the requirements of this
22 chapter. Only the director of the department or the director's
23 designee may authorize expenditures from the account. The account is
24 subject to the allotment procedures under chapter 43.88 RCW, but an
25 appropriation is not required for expenditures.

26 NEW SECTION. **Sec. 319.** CONTINGENCY. If a distributor
27 responsibility organization ceases to exist and operate a deposit
28 return system in Washington, other than for temporary disruptions due
29 to unforeseen circumstances, as determined by the department,
30 qualifying beverage containers become covered products under chapter
31 70A.--- RCW (the new chapter created in section 601 of this act).

32 **Part Four**
33 **Amendments to Solid Waste Management Laws**

34 **Sec. 401.** RCW 70A.205.005 and 2002 c 299 s 3 are each amended to
35 read as follows:

1 The legislature finds:

2 (1) Continuing technological changes in methods of manufacture,
3 packaging, and marketing of consumer products, together with the
4 economic and population growth of this state, the rising affluence of
5 its citizens, and its expanding industrial activity have created new
6 and ever-mounting problems involving disposal of garbage, refuse, and
7 solid waste materials resulting from domestic, agricultural, and
8 industrial activities.

9 (2) Traditional methods of disposing of solid wastes in this
10 state are no longer adequate to meet the ever-increasing problem.
11 Improper methods and practices of handling and disposal of solid
12 wastes pollute our land, air and water resources, blight our
13 countryside, adversely affect land values, and damage the overall
14 quality of our environment.

15 (3) Considerations of natural resource limitations, energy
16 shortages, economics and the environment make necessary the
17 development and implementation of solid waste recovery and/or
18 recycling plans and programs.

19 (4) Waste reduction must become a fundamental strategy of solid
20 waste management. It is therefore necessary to change manufacturing
21 and purchasing practices and waste generation behaviors to reduce the
22 amount of waste that becomes a governmental responsibility.

23 (5) Source separation of waste must become a fundamental strategy
24 of solid waste management. Collection and handling strategies should
25 have, as an ultimate goal, the source separation of all materials
26 with resource value or environmental hazard.

27 (6)(a) It should be the goal of every person and business to
28 minimize their production of wastes and to separate recyclable or
29 hazardous materials from mixed waste.

30 (b) It is the responsibility of state, county, and city
31 governments to provide for a waste management infrastructure to fully
32 implement waste reduction and source separation strategies and to
33 process and dispose of remaining wastes in a manner that is
34 environmentally safe and economically sound. It is further the
35 responsibility of state, county, and city governments to monitor the
36 cost-effectiveness and environmental safety of combusting separated
37 waste, processing mixed municipal solid waste, and recycling
38 programs.

39 (c) It is the responsibility of county and city governments to
40 assume primary responsibility for solid waste management and to

1 develop and implement aggressive and effective waste reduction and
2 source separation strategies.

3 (d) It is the responsibility of state government to ensure that
4 local governments are providing adequate source reduction and
5 separation opportunities and incentives to all, including persons in
6 both rural and urban areas, and nonresidential waste generators such
7 as commercial, industrial, and institutional entities, recognizing
8 the need to provide flexibility to accommodate differing population
9 densities, distances to and availability of recycling markets, and
10 collection and disposal costs in each community; and to provide
11 county and city governments with adequate technical resources to
12 accomplish this responsibility.

13 (e) It is the responsibility of producers to help provide for the
14 responsible management of their products.

15 (7) Environmental and economic considerations in solving the
16 state's solid waste management problems requires strong consideration
17 by local governments of regional solutions and intergovernmental
18 cooperation.

19 (8) The following priorities for the collection, handling, and
20 management of solid waste are necessary and should be followed in
21 descending order as applicable:

22 (a) Waste reduction;

23 (b) Recycling, with source separation of recyclable materials as
24 the preferred method;

25 (c) Energy recovery, incineration, or landfill of separated
26 waste;

27 (d) Energy recovery, incineration, or landfill of mixed municipal
28 solid wastes.

29 (9) It is the state's goal to achieve a (~~fifty~~) 50 percent
30 recycling rate by 2007.

31 (10) It is the state's goal that programs be established to
32 eliminate residential or commercial yard debris in landfills by 2012
33 in those areas where alternatives to disposal are readily available
34 and effective.

35 (11) Steps should be taken to make recycling at least as
36 affordable and convenient to the ratepayer as mixed waste disposal.

37 (12) It is necessary to compile and maintain adequate data on the
38 types and quantities of solid waste that are being generated and to
39 monitor how the various types of solid waste are being managed.

1 (13) Vehicle batteries should be recycled and the disposal of
2 vehicle batteries into landfills or incinerators should be
3 discontinued.

4 (14) Excessive and nonrecyclable packaging of products should be
5 avoided.

6 (15) Comprehensive education should be conducted throughout the
7 state so that people are informed of the need to reduce, source
8 separate, and recycle solid waste.

9 (16) All governmental entities in the state should set an example
10 by implementing aggressive waste reduction and recycling programs at
11 their workplaces and by purchasing products that are made from
12 recycled materials and are recyclable.

13 (17) To ensure the safe and efficient operations of solid waste
14 disposal facilities, it is necessary for operators and regulators of
15 landfills and incinerators to receive training and certification.

16 (18) It is necessary to provide adequate funding to all levels of
17 government so that successful waste reduction and recycling programs
18 can be implemented.

19 (19) The development of stable and expanding markets for
20 recyclable materials is critical to the long-term success of the
21 state's recycling goals. Market development must be encouraged on a
22 state, regional, and national basis to maximize its effectiveness.
23 The state shall assume primary responsibility for the development of
24 a multifaceted market development program to carry out the purposes
25 of chapter 431, Laws of 1989.

26 (20) There is an imperative need to anticipate, plan for, and
27 accomplish effective storage, control, recovery, and recycling of
28 discarded tires and other problem wastes with the subsequent
29 conservation of resources and energy.

30 **Sec. 402.** RCW 70A.205.010 and 2005 c 394 s 2 are each amended to
31 read as follows:

32 The purpose of this chapter is to establish a comprehensive
33 statewide program for solid waste handling, and solid waste recovery
34 and/or recycling which will prevent land, air, and water pollution
35 and conserve the natural, economic, and energy resources of this
36 state. To this end it is the purpose of this chapter:

37 (1) To assign primary responsibility for adequate solid waste
38 handling to local government, reserving to the state, however, those
39 functions necessary to assure effective programs throughout the

1 state, and sharing with producers' responsibility for the management
2 of their covered products under chapter 70A.--- RCW (the new chapter
3 created in section 601 of this act);

4 (2) To provide for adequate planning for solid waste handling by
5 local government;

6 (3) To provide for the adoption and enforcement of basic minimum
7 performance standards for solid waste handling, including that all
8 sites where recyclable materials are generated and transported from
9 shall provide a separate container for solid waste;

10 (4) To encourage the development and operation of waste recycling
11 facilities needed to accomplish the management priority of waste
12 recycling, to promote consistency in the requirements for such
13 facilities throughout the state, and to ensure that recyclable
14 materials diverted from the waste stream for recycling are routed to
15 facilities in which recycling occurs;

16 (5) To provide technical and financial assistance to local
17 governments in the planning, development, and conduct of solid waste
18 handling programs;

19 (6) To encourage storage, proper disposal, and recycling of
20 discarded vehicle tires and to stimulate private recycling programs
21 throughout the state; and

22 (7) To encourage the development and operation of waste recycling
23 facilities and activities needed to accomplish the management
24 priority of waste recycling and to promote consistency in the
25 permitting requirements for such facilities and activities throughout
26 the state.

27 It is the intent of the legislature that local governments be
28 encouraged to use the expertise of private industry and to contract
29 with private industry to the fullest extent possible to carry out
30 solid waste recovery and/or recycling programs.

31 **Sec. 403.** RCW 70A.205.045 and 2020 c 20 s 1163 are each amended
32 to read as follows:

33 Each county and city comprehensive solid waste management plan
34 shall include the following:

35 (1) A detailed inventory and description of all existing solid
36 waste handling facilities including an inventory of any deficiencies
37 in meeting current solid waste handling needs.

38 (2) The estimated long-range needs for solid waste handling
39 facilities projected twenty years into the future.

1 (3) A program for the orderly development of solid waste handling
2 facilities in a manner consistent with the plans for the entire
3 county which shall:

4 (a) Meet the minimum functional standards for solid waste
5 handling adopted by the department and all laws and regulations
6 relating to air and water pollution, fire prevention, flood control,
7 and protection of public health;

8 (b) Take into account the comprehensive land use plan of each
9 jurisdiction;

10 (c) Contain a six year construction and capital acquisition
11 program for solid waste handling facilities; and

12 (d) Contain a plan for financing both capital costs and
13 operational expenditures of the proposed solid waste management
14 system.

15 (4) A program for surveillance and control.

16 (5) A current inventory and description of solid waste collection
17 needs and operations within each respective jurisdiction which shall
18 include:

19 (a) Any franchise for solid waste collection granted by the
20 utilities and transportation commission in the respective
21 jurisdictions including the name of the holder of the franchise and
22 the address of his or her place of business and the area covered by
23 the franchise;

24 (b) Any city solid waste operation within the county and the
25 boundaries of such operation;

26 (c) The population density of each area serviced by a city
27 operation or by a franchised operation within the respective
28 jurisdictions;

29 (d) The projected solid waste collection needs for the respective
30 jurisdictions for the next six years.

31 (6) A comprehensive waste reduction and recycling element that,
32 in accordance with the priorities established in RCW 70A.205.005,
33 provides programs that (a) reduce the amount of waste generated, (b)
34 provide incentives and mechanisms for source separation, and (c)
35 establish recycling opportunities for the source separated waste.

36 (7) The waste reduction and recycling element shall include the
37 following:

38 (a) Waste reduction strategies, which may include strategies to
39 reduce wasted food and food waste that are designed to achieve the

1 goals established in RCW 70A.205.715(1) and that are consistent with
2 the plan developed in RCW 70A.205.715(3);

3 (b) Source separation strategies, including:

4 (i) Programs for the collection of source separated materials
5 from residences (~~in urban and rural areas. In urban areas, these~~),
6 including programs that are the responsibility of producer
7 responsibility organizations in chapter 70A.--- RCW (the new chapter
8 created in section 601 of this act) and distributor responsibility
9 organizations in chapter 70A.--- RCW (the new chapter created in
10 section 603 of this act). These programs shall include collection of
11 source separated recyclable materials from single and multiple-family
12 residences, unless the county has adopted an ordinance establishing
13 that covered products designated for collection by a producer
14 responsibility organization plan must be collected exclusively
15 through alternate collection in areas regulated by the utilities and
16 transportation commission under the provisions of chapter 81.77 RCW
17 or the department approves an alternative program, according to the
18 criteria in the planning guidelines. Such criteria shall include:
19 Anticipated recovery rates and levels of public participation,
20 availability of environmentally sound disposal capacity, access to
21 markets for recyclable materials, unreasonable cost impacts on the
22 ratepayer over the six-year planning period, utilization of
23 environmentally sound waste reduction and recycling technologies, and
24 other factors as appropriate. ((In rural areas, these)) These
25 programs shall also include but not be limited to drop-off boxes,
26 buy-back centers, or a combination of both, at each solid waste
27 transfer, processing, or disposal site, or at locations convenient to
28 the residents of the county. The drop-off boxes and buy-back centers
29 may be owned or operated by public, nonprofit, or private persons.
30 Comprehensive solid waste management plans that are newly developed,
31 updated, or amended after July 1, 2026, may incorporate by reference
32 the plans of producer responsibility organizations established in the
33 jurisdiction under chapter 70A.--- RCW (the new chapter created in
34 section 601 of this act) to fulfill this requirement in whole or in
35 part;

36 (ii) Programs to monitor the collection of source separated waste
37 at nonresidential sites where there is sufficient density to sustain
38 a program;

39 (iii) Programs to collect yard waste and food waste, if the
40 county or city submitting the plan finds that there are adequate

1 markets or capacity for composted yard waste and food waste within or
2 near the service area to consume the majority of the material
3 collected; and

4 (iv) Programs to educate and promote the concepts of waste
5 reduction and recycling;

6 (c) Recycling strategies, including a description of markets for
7 recyclables, a review of waste generation trends, a description of
8 waste composition, a discussion and description of existing programs
9 and any additional programs needed to assist public and private
10 sector recycling, and an implementation schedule for the designation
11 of specific materials to be collected for recycling, and for the
12 provision of recycling collection services;

13 (d) Other information the county or city submitting the plan
14 determines is necessary.

15 (8) An assessment of the plan's impact on the costs of solid
16 waste collection. The assessment shall be prepared in conformance
17 with guidelines established by the utilities and transportation
18 commission. The commission shall cooperate with the Washington state
19 association of counties and the association of Washington cities in
20 establishing such guidelines.

21 (9) A review of potential areas that meet the criteria as
22 outlined in RCW 70A.205.110.

23 (10) A contamination reduction and outreach plan. The
24 contamination reduction and outreach plan must address reducing
25 contamination in recycling. Except for counties with a population of
26 twenty-five thousand or fewer, by July 1, 2021, a contamination
27 reduction and outreach plan must be included in each solid waste
28 management plan by a plan amendment or included when revising or
29 updating a solid waste management plan developed under this chapter.
30 Jurisdictions may adopt the state's contamination reduction and
31 outreach plan as developed under RCW 70A.205.070 or participate in a
32 producer responsibility organization's plan in lieu of creating their
33 own plan. In comprehensive solid waste management plans that are
34 newly developed, updated, or amended after July 1, 2027, a
35 jurisdiction must reference the plans of producer responsibility
36 organizations established in the jurisdiction under chapter 70A.---
37 RCW (the new chapter created in section 601 of this act) and any
38 plans of distributor responsibility organizations under chapter
39 70A.--- RCW (the new chapter created in section 603 of this act). A

1 recycling contamination reduction and outreach plan must include the
2 following:

3 (a) A list of actions for reducing contamination in recycling
4 programs for single-family and multiple-family residences, commercial
5 locations, and drop boxes depending on the jurisdictions system
6 components;

7 (b) A list of key contaminants identified by the jurisdiction or
8 identified by the department;

9 (c) A discussion of problem contaminants and the contaminants'
10 impact on the collection system;

11 (d) An analysis of the costs and other impacts associated with
12 contaminants to the recycling system; and

13 (e) An implementation schedule and details of how outreach is to
14 be conducted. Contamination reduction education methods may include
15 sharing community-wide messaging through newsletters, articles,
16 mailers, social media, websites, or community events, informing
17 recycling drop box customers about contamination, and improving
18 signage.

19 **Sec. 404.** RCW 81.77.030 and 2020 c 20 s 1467 are each amended to
20 read as follows:

21 (1) The commission shall supervise and regulate every solid waste
22 collection company in this state,

23 ~~((1))~~ (a) By fixing and altering its rates, charges,
24 classifications, rules and regulations;

25 ~~((2))~~ (b) By regulating the accounts, service, and safety of
26 operations;

27 ~~((3))~~ (c) By requiring the filing of annual and other reports
28 and data;

29 ~~((4))~~ (d) By supervising and regulating such persons or
30 companies in all other matters affecting the relationship between
31 them and the public which they serve;

32 ~~((5))~~ (e) By requiring compliance with local solid waste
33 management plans and related implementation ordinances;

34 ~~((6))~~ (f) By reviewing producer responsibility organization
35 reimbursement of regulated service providers consistent with the
36 requirements of chapter 70A.--- RCW (the new chapter created in
37 section 601 of this act);

38 (g) By requiring certificate holders under this chapter ~~((81.77~~
39 ~~RCW))~~ to use rate structures and billing systems consistent with the

1 solid waste management priorities set forth under RCW 70A.205.005 and
2 the minimum levels of solid waste collection and recycling services
3 pursuant to local comprehensive solid waste management plans and with
4 implementation of curbside recycling collection services designated
5 by a producer responsibility organization in an approved plan to meet
6 the requirements of chapter 70A.--- RCW (the new chapter created in
7 section 601 of this act). The commission may order consolidated
8 billing and provide for reasonable and necessary expenses to be paid
9 to the administering company if more than one certificate is granted
10 in an area.

11 (2) The commission, on complaint made on its own motion or by an
12 aggrieved party, at any time, after providing the holder of any
13 certificate with notice and an opportunity for a hearing at which it
14 shall be proven that the holder has willfully violated or refused to
15 observe any of the commission's orders, rules, or regulations, or has
16 failed to operate as a solid waste collection company for a period of
17 at least one year preceding the filing of the complaint, may suspend,
18 revoke, alter, or amend any certificate issued under the provisions
19 of this chapter.

20 **Sec. 405.** RCW 81.77.040 and 2020 c 20 s 1468 are each amended to
21 read as follows:

22 A solid waste collection company shall not operate for the
23 hauling of solid waste for compensation without first having obtained
24 from the commission a certificate declaring that public convenience
25 and necessity require such operation. Operating for the hauling of
26 solid waste for compensation includes advertising, soliciting,
27 offering, or entering into an agreement to provide that service. To
28 operate a solid waste collection company in the unincorporated areas
29 of a county, the company must comply with the solid waste management
30 plan prepared under chapter 70A.205 RCW in the company's franchise
31 area and, if applicable, the service standards for curbside recycling
32 collection services established in an approved producer
33 responsibility organization plan to meet the requirements of chapter
34 70A.--- RCW (the new chapter created in section 601 of this act).

35 Issuance of the certificate of necessity must be determined on,
36 but not limited to, the following factors: The present service and
37 the cost thereof for the contemplated area to be served; an estimate
38 of the cost of the facilities to be utilized in the plant for solid
39 waste collection and disposal, set out in an affidavit or

1 declaration; a statement of the assets on hand of the person, firm,
2 association, or corporation that will be expended on the purported
3 plant for solid waste collection and disposal, set out in an
4 affidavit or declaration; a statement of prior experience, if any, in
5 such field by the petitioner, set out in an affidavit or declaration;
6 and sentiment in the community contemplated to be served as to the
7 necessity for such a service.

8 When an applicant requests a certificate to operate in a
9 territory already served by a certificate holder under this chapter,
10 the commission may, after notice and an opportunity for a hearing,
11 issue the certificate only if the existing solid waste collection
12 company or companies serving the territory will not provide service
13 to the satisfaction of the commission or if the existing solid waste
14 collection company does not object.

15 In all other cases, the commission may, with or without hearing,
16 issue certificates, or for good cause shown refuse to issue them, or
17 issue them for the partial exercise only of the privilege sought, and
18 may attach to the exercise of the rights granted such terms and
19 conditions as, in its judgment, the public convenience and necessity
20 may require.

21 Any right, privilege, certificate held, owned, or obtained by a
22 solid waste collection company may be sold, assigned, leased,
23 transferred, or inherited as other property, only if authorized by
24 the commission.

25 For purposes of issuing certificates under this chapter, the
26 commission may adopt categories of solid wastes as follows: Garbage,
27 refuse, recyclable materials, and demolition debris. A certificate
28 may be issued for one or more categories of solid waste. Certificates
29 issued on or before July 23, 1989, shall not be expanded or
30 restricted by operation of this chapter.

31 **Sec. 406.** RCW 81.77.160 and 1997 c 434 s 1 are each amended to
32 read as follows:

33 (1) The commission, in fixing and altering collection rates
34 charged by every solid waste collection company under this section,
35 shall include in the base for the collection rates:

36 (a) All charges for the disposal of solid waste at the facility
37 or facilities designated by a local jurisdiction under a local
38 comprehensive solid waste management plan or ordinance; and

1 (b) All known and measurable costs related to implementation of
2 the approved county or city comprehensive solid waste management plan
3 or to the implementation of curbside recycling collection services
4 performed by a solid waste collection company and designated by a
5 producer responsibility organization in an approved plan to meet the
6 requirements of chapter 70A.--- RCW (the new chapter created in
7 section 601 of this act).

8 (2) If a solid waste collection company files a tariff to recover
9 the costs specified under this section, and the commission suspends
10 the tariff, the portion of the tariff covering costs specified in
11 this section shall be placed in effect by the commission at the
12 request of the company on an interim basis as of the originally filed
13 effective date, subject to refund, pending the commission's final
14 order. The commission may adopt rules to implement this section.

15 (3) This section applies to a solid waste collection company that
16 has an affiliated interest under chapter 81.16 RCW with a facility,
17 if the total cost of disposal, including waste transfer, transport,
18 and disposal charges, at the facility is equal to or lower than any
19 other reasonable and currently available option.

20 **Sec. 407.** RCW 81.77.185 and 2010 c 154 s 3 are each amended to
21 read as follows:

22 (1) The commission shall allow solid waste collection companies
23 collecting recyclable materials other than covered products collected
24 under an approved plan in chapter 70A.--- RCW (the new chapter
25 created in section 601 of this act) and qualifying beverage
26 containers under an approved plan in chapter 70A.--- RCW (the new
27 chapter created in section 603 of this act) to retain up to ((fifty))
28 50 percent of the revenue paid to the companies for the material if
29 the companies submit a plan to the commission that is certified by
30 the appropriate local government authority as being consistent with
31 the local government solid waste plan and that demonstrates how the
32 revenues will be used to increase recycling. The remaining revenue
33 shall be passed to residential customers.

34 (2) By December 2, 2005, the commission shall provide a report to
35 the legislature that evaluates:

36 (a) The effectiveness of revenue sharing as an incentive to
37 increase recycling in the state; and

38 (b) The effect of revenue sharing on costs to customers.

1 NEW SECTION. **Sec. 408.** APPLICATION OF CHAPTER—COLLECTION AND
2 TRANSPORTATION OF RECYCLABLE MATERIALS BY RECYCLING COMPANIES OR
3 NONPROFIT ENTITIES—REUSE OR RECLAMATION. (1) Nothing in this chapter
4 or chapter 70A.--- (the new chapter created in section 602 of this
5 act) or 70A.--- RCW (the new chapter created in section 603 of this
6 act) prevents a recycling company or nonprofit entity from collecting
7 and transporting recyclable materials from a buy-back center, drop
8 box, or from a commercial or industrial generator of recyclable
9 materials that does not include materials generated from single and
10 multiple-family residences upon agreement with a solid waste
11 collection company.

12 (2) Nothing in this chapter or chapter 70A.--- (the new chapter
13 created in section 602 of this act) or 70A.--- RCW (the new chapter
14 created in section 603 of this act) may be construed as prohibiting a
15 commercial or industrial generator of commercial recyclable materials
16 that does not contain materials generated from single or multiple-
17 family residences from selling, conveying, or arranging for
18 transportation of the material to a recycler for reuse or
19 reclamation.

20 NEW SECTION. **Sec. 409.** A new section is added to chapter
21 70A.222 RCW to read as follows:

22 The department of ecology may direct producers to register and
23 submit any required data, annual reports, fees, and annual payments,
24 and any additional information or documentation to the clearinghouse
25 established in section 125 of this act in lieu of submission to the
26 department.

27 NEW SECTION. **Sec. 410.** A new section is added to chapter
28 70A.350 RCW to read as follows:

29 The department may direct producers to register and submit any
30 required data, annual reports, fees, and annual payments, and any
31 additional information or documentation to the clearinghouse
32 established in section 125 of this act in lieu of submission to the
33 department.

34 NEW SECTION. **Sec. 411.** A new section is added to chapter
35 70A.245 RCW to read as follows:

36 The department may direct producers to register and submit any
37 required data, annual reports, fees, and annual payments, and any

1 additional information or documentation to the clearinghouse
2 established in section 125 of this act in lieu of submission to the
3 department.

4 NEW SECTION. **Sec. 412.** A new section is added to chapter
5 70A.230 RCW to read as follows:

6 The department may direct producers to register and submit any
7 required data, annual reports, fees, and annual payments, and any
8 additional information or documentation to the clearinghouse
9 established in section 125 of this act in lieu of submission to the
10 department.

11 NEW SECTION. **Sec. 413.** A new section is added to chapter
12 70A.340 RCW to read as follows:

13 The department may direct producers to register and submit any
14 required data, annual reports, fees, and annual payments, and any
15 additional information or documentation to the clearinghouse
16 established in section 125 of this act in lieu of submission to the
17 department.

18 NEW SECTION. **Sec. 414.** A new section is added to chapter
19 70A.455 RCW to read as follows:

20 The department may direct producers to register and submit any
21 required data, annual reports, fees, and annual payments, and any
22 additional information or documentation to the clearinghouse
23 established in section 125 of this act in lieu of submission to the
24 department.

25 NEW SECTION. **Sec. 415.** The department of ecology may direct
26 distributors to register and submit any required data, annual
27 reports, fees, and annual payments, and any additional information or
28 documentation to the clearinghouse established in section 125 of this
29 act in lieu of submission to the department.

30 **Part Five**
31 **Other Conforming Amendments and Miscellaneous Provisions**

32 **Sec. 501.** RCW 43.21B.110 and 2022 c 180 s 812 are each amended
33 to read as follows:

1 (1) The hearings board shall only have jurisdiction to hear and
2 decide appeals from the following decisions of the department, the
3 director, local conservation districts, the air pollution control
4 boards or authorities as established pursuant to chapter 70A.15 RCW,
5 local health departments, the department of natural resources, the
6 department of fish and wildlife, the parks and recreation commission,
7 and authorized public entities described in chapter 79.100 RCW:

8 (a) Civil penalties imposed pursuant to RCW 18.104.155,
9 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,
10 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080,
11 70A.65.200, 70A.455.090, sections 123, 211, and 319 of this act,
12 76.09.170, 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270,
13 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

14 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
15 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,
16 70A.245.020, 70A.65.200, sections 123, 211, and 319 of this act,
17 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

18 (c) Except as provided in RCW 90.03.210(2), the issuance,
19 modification, or termination of any permit, certificate, or license
20 by the department or any air authority in the exercise of its
21 jurisdiction, including the issuance or termination of a waste
22 disposal permit, the denial of an application for a waste disposal
23 permit, the modification of the conditions or the terms of a waste
24 disposal permit, or a decision to approve or deny an application for
25 a solid waste permit exemption under RCW 70A.205.260.

26 (d) Decisions of local health departments regarding the grant or
27 denial of solid waste permits pursuant to chapter 70A.205 RCW.

28 (e) Decisions of local health departments regarding the issuance
29 and enforcement of permits to use or dispose of biosolids under RCW
30 70A.226.090.

31 (f) Decisions of the department regarding waste-derived
32 fertilizer or micronutrient fertilizer under RCW 15.54.820, and
33 decisions of the department regarding waste-derived soil amendments
34 under RCW 70A.205.145.

35 (g) Decisions of local conservation districts related to the
36 denial of approval or denial of certification of a dairy nutrient
37 management plan; conditions contained in a plan; application of any
38 dairy nutrient management practices, standards, methods, and
39 technologies to a particular dairy farm; and failure to adhere to the
40 plan review and approval timelines in RCW 90.64.026.

1 (h) Any other decision by the department or an air authority
2 which pursuant to law must be decided as an adjudicative proceeding
3 under chapter 34.05 RCW.

4 (i) Decisions of the department of natural resources, the
5 department of fish and wildlife, and the department that are
6 reviewable under chapter 76.09 RCW, and the department of natural
7 resources' appeals of county, city, or town objections under RCW
8 76.09.050(7).

9 (j) Forest health hazard orders issued by the commissioner of
10 public lands under RCW 76.06.180.

11 (k) Decisions of the department of fish and wildlife to issue,
12 deny, condition, or modify a hydraulic project approval permit under
13 chapter 77.55 RCW, to issue a stop work order, to issue a notice to
14 comply, to issue a civil penalty, or to issue a notice of intent to
15 disapprove applications.

16 (l) Decisions of the department of natural resources that are
17 reviewable under RCW 78.44.270.

18 (m) Decisions of an authorized public entity under RCW 79.100.010
19 to take temporary possession or custody of a vessel or to contest the
20 amount of reimbursement owed that are reviewable by the hearings
21 board under RCW 79.100.120.

22 (n) Decisions of the department of ecology that are appealable
23 under RCW 70A.245.020 or section 211 of this act to set recycled
24 minimum postconsumer content for ((covered)) products or to
25 temporarily exclude types of ((covered)) products in plastic
26 containers from minimum postconsumer recycled content requirements.

27 (o) Orders by the department of ecology under RCW 70A.455.080.

28 (2) The following hearings shall not be conducted by the hearings
29 board:

30 (a) Hearings required by law to be conducted by the shorelines
31 hearings board pursuant to chapter 90.58 RCW.

32 (b) Hearings conducted by the department pursuant to RCW
33 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,
34 70A.15.3110, and 90.44.180.

35 (c) Appeals of decisions by the department under RCW 90.03.110
36 and 90.44.220.

37 (d) Hearings conducted by the department to adopt, modify, or
38 repeal rules.

1 (3) Review of rules and regulations adopted by the hearings board
2 shall be subject to review in accordance with the provisions of the
3 administrative procedure act, chapter 34.05 RCW.

4 **Sec. 502.** RCW 43.21B.300 and 2022 c 180 s 813 are each amended
5 to read as follows:

6 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,
7 70A.205.280, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050,
8 70A.245.070, 70A.245.080, 70A.65.200, 70A.455.090, sections 123, 211,
9 and 319 of this act, 88.46.090, 90.03.600, 90.46.270, 90.48.144,
10 90.56.310, 90.56.330, and 90.64.102 and chapter 70A.355 RCW shall be
11 imposed by a notice in writing, either by certified mail with return
12 receipt requested or by personal service, to the person incurring the
13 penalty from the department or the local air authority, describing
14 the violation with reasonable particularity. For penalties issued by
15 local air authorities, within 30 days after the notice is received,
16 the person incurring the penalty may apply in writing to the
17 authority for the remission or mitigation of the penalty. Upon
18 receipt of the application, the authority may remit or mitigate the
19 penalty upon whatever terms the authority in its discretion deems
20 proper. The authority may ascertain the facts regarding all such
21 applications in such reasonable manner and under such rules as it may
22 deem proper and shall remit or mitigate the penalty only upon a
23 demonstration of extraordinary circumstances such as the presence of
24 information or factors not considered in setting the original
25 penalty.

26 (2) Any penalty imposed under this section may be appealed to the
27 pollution control hearings board in accordance with this chapter if
28 the appeal is filed with the hearings board and served on the
29 department or authority 30 days after the date of receipt by the
30 person penalized of the notice imposing the penalty or 30 days after
31 the date of receipt of the notice of disposition by a local air
32 authority of the application for relief from penalty.

33 (3) A penalty shall become due and payable on the later of:

34 (a) Thirty days after receipt of the notice imposing the penalty;

35 (b) Thirty days after receipt of the notice of disposition by a
36 local air authority on application for relief from penalty, if such
37 an application is made; or

38 (c) Thirty days after receipt of the notice of decision of the
39 hearings board if the penalty is appealed.

1 (4) If the amount of any penalty is not paid to the department
2 within 30 days after it becomes due and payable, the attorney
3 general, upon request of the department, shall bring an action in the
4 name of the state of Washington in the superior court of Thurston
5 county, or of any county in which the violator does business, to
6 recover the penalty. If the amount of the penalty is not paid to the
7 authority within 30 days after it becomes due and payable, the
8 authority may bring an action to recover the penalty in the superior
9 court of the county of the authority's main office or of any county
10 in which the violator does business. In these actions, the procedures
11 and rules of evidence shall be the same as in an ordinary civil
12 action.

13 (5) All penalties recovered shall be paid into the state treasury
14 and credited to the general fund except those penalties imposed
15 pursuant to RCW 18.104.155, which shall be credited to the
16 reclamation account as provided in RCW 18.104.155(7), RCW
17 70A.15.3160, the disposition of which shall be governed by that
18 provision, RCW 70A.245.040 (~~and~~), 70A.245.050, and section 211 of
19 this act, which shall be credited to the recycling enhancement
20 account created in RCW 70A.245.100, RCW 70A.300.090, which shall be
21 credited to the model toxics control operating account created in RCW
22 70A.305.180, RCW 70A.65.200, which shall be credited to the climate
23 investment account created in RCW 70A.65.250, RCW 90.56.330, which
24 shall be credited to the coastal protection fund created by RCW
25 90.48.390, (~~and~~) RCW 70A.355.070, which shall be credited to the
26 underground storage tank account created by RCW 70A.355.090, and
27 chapter 70A.--- RCW (the new chapter created in section 601 of this
28 act) and section 319 of this act, which shall be credited to the
29 recycling enhancement account created in RCW 70A.245.100.

30 NEW SECTION. Sec. 503. A new section is added to chapter 69.50
31 RCW to read as follows:

32 LIQUOR AND CANNABIS BOARD PACKAGING REQUIREMENTS. (1) By July 1,
33 2026, the board, in consultation with the department of ecology, must
34 update the rules adopted under RCW 69.50.342 and 69.50.345 related to
35 the nature, form, and capacity of containers used by licensees under
36 this chapter, with a goal of:

37 (a) Reducing the use of plastic packaging in an amount that is at
38 least commensurate with the source reduction rates for covered

1 products proposed by a producer responsibility organization under
2 section 111(1)(a)(iii) of this act; and

3 (b) Allowing for and encouraging the reuse of containers for
4 cannabis, cannabis concentrates, useable cannabis, or cannabis-
5 infused products.

6 (2) In addition to the source reduction and reuse to be achieved
7 under subsection (1) of this section, the board may establish minimum
8 postconsumer recycled content requirements for packaging of at least
9 25 percent postconsumer recycled content by weight through the year
10 2030, and at least 50 percent postconsumer recycled content plastic
11 by weight beginning in the year 2031. If postconsumer recycled
12 content requirements are established for packaging under this
13 subsection, the board may require that producers of packaging report
14 any required data, annual reports, fees, and annual payments, and any
15 additional information or documentation to the board or to the
16 department of ecology using the clearinghouse established in section
17 125 of this act.

18 (3) Rules adopted by the board under this section must:

19 (a) Not compromise public health, safety, or packaging integrity;

20 (b) Take into consideration the availability of recycled plastic
21 suitable to meet any minimum postconsumer recycled content
22 requirements established under this section; and

23 (c) Take into consideration the technical feasibility of source
24 reduction, reuse, and postconsumer recycled content requirements.

25 NEW SECTION. **Sec. 504.** AUTHORITY OF UTILITIES AND
26 TRANSPORTATION COMMISSION. Nothing in this chapter or chapter 70A.---
27 (the new chapter created in section 602 of this act) or 70A.--- RCW
28 (the new chapter created in section 603 of this act) changes or
29 limits the authority of the Washington utilities and transportation
30 commission to regulate collection of solid waste, including curbside
31 collection of residential recyclable materials, in accordance with
32 chapter 81.77 RCW.

33 NEW SECTION. **Sec. 505.** FEASIBILITY STUDY. (1) By December 1,
34 2025, the department of ecology must complete and publish on its
35 website the feasibility analysis described in this section.

36 (a) The purpose of the feasibility analysis is to:

37 (i) Identify options to improve the convenience experienced by
38 consumers with unwanted products or packaging covered by state

1 product stewardship, extended producer responsibility, and similar
2 takeback programs, by harmonizing or establishing a system of common
3 or centralized takeback centers or depots for consumers; and

4 (ii) Consider the viability, costs, and tradeoffs associated with
5 each option that might lead to improved outcomes for consumers and
6 improved end-of-life management outcomes for covered unwanted
7 products.

8 (b) The department of ecology must deliver policy recommendations
9 to the legislature by December 1, 2025.

10 (2) The department of ecology must consult with the department of
11 health for purposes of considering the potential for integration of
12 collection infrastructure under chapter 69.48 RCW with the collection
13 infrastructure of other state programs.

14 (3) The feasibility analysis required under this section must:

15 (a) Be conducted by an independent third party selected by the
16 department;

17 (b) Consider the following:

18 (i) Existing common collection infrastructure models used by
19 other jurisdictions;

20 (ii) Existing voluntary and contractually established collection
21 infrastructure currently used to collect unwanted products and
22 packaging in Washington; and

23 (iii) Options to deploy curbside collection systems for the
24 specialized collection of products;

25 (c) Include policy recommendations to the legislature to improve
26 consumer convenience and improve environmental end-of-life management
27 outcomes for any combination of products and packaging covered by
28 extended producer responsibility programs, takeback programs, or
29 product stewardship programs;

30 (i) The policy recommendations must consider:

31 (A) Beverage containers covered by the deposit return
32 requirements of chapter 70A.--- RCW (the new chapter created in
33 section 603 of this act);

34 (B) Covered products under chapter 70A.--- RCW (the new chapter
35 created in section 601 of this act);

36 (C) Covered drugs under chapter 69.48 RCW;

37 (D) Covered electronic products under chapter 70A.500 RCW;

38 (E) Mercury-containing lights under chapter 70A.505 RCW;

39 (F) Photovoltaic modules under chapter 70A.510 RCW; and

40 (G) Architectural paint under chapter 70A.515 RCW.

1 (ii) Any policy recommendations for changes to the collection of
2 products covered by programs identified in (c)(i) of this subsection
3 should consider:

4 (A) Whether and how to amend convenience standards established
5 under each program, including the types of curbside, drop off, event,
6 and public and private infrastructure that serves as collection
7 infrastructure; and

8 (B) Whether and how to specify that producers of products covered
9 by programs recommended for inclusion in the creation of a common
10 collection system be required to fund the establishment of the common
11 collection infrastructure; and

12 (d) Include an opportunity for public input on the feasibility
13 study and on any draft recommendations.

14 NEW SECTION. **Sec. 506.** LITTER TAX STUDY. (1) In consultation
15 with producer responsibility organizations registered with the
16 department of ecology under chapter 70A.--RCW (the new chapter
17 created in section 601 of this act) and distributor responsibility
18 organizations under chapter 70A.--- RCW (the new chapter created in
19 section 603 of this act), the department of ecology and the
20 department of revenue must study:

21 (a) The impacts of producer and distributor requirements under
22 chapters 70A.--- (the new chapter created in section 601 of this act)
23 and 70A.--- RCW (the new chapter created in section 603 of this act)
24 on the litter rates of covered products and qualifying beverage
25 containers under those chapters; and

26 (b) Possible improvements to the structure of the litter tax
27 under chapter 82.19 RCW including, but not limited to,
28 administration, compliance, and distribution of the tax and
29 application of the tax to certain products, for achieving the purpose
30 of chapter 82.19 RCW.

31 (2) By January 1, 2029, the department of ecology, in
32 consultation with the department of revenue, must provide
33 recommendations to the appropriate committees of the legislature on:

34 (a) Applicability of the litter tax to covered products and
35 qualifying beverage containers, based on whether the purpose of the
36 litter tax under chapter 82.19 RCW is being achieved for those
37 products by the requirements of producers and distributors under
38 chapters 70A.--- (the new chapter created in section 601 of this act)

1 and 70A.--- RCW (the new chapter created in section 603 of this act);
2 and

3 (b) Improvements to the structure of the litter tax for meeting
4 the purposes of chapter 82.19 RCW.

5 (3) This section expires July 1, 2029.

6 NEW SECTION. **Sec. 507.** RCW 70A.245.110 (Recycled content
7 account) and 2021 c 313 s 14 are each repealed, effective July 1,
8 2029.

9 NEW SECTION. **Sec. 508.** If any provision of this act or its
10 application to any person or circumstance is held invalid, the
11 remainder of the act or the application of the provision to other
12 persons or circumstances is not affected.

13 **Part Six**
14 **Codification Directives**

15 NEW SECTION. **Sec. 601.** Sections 101 through 128, 408, 504, and
16 506 of this act constitute a new chapter in Title 70A RCW.

17 NEW SECTION. **Sec. 602.** Sections 201 through 212 of this act
18 constitute a new chapter in Title 70A RCW.

19 NEW SECTION. **Sec. 603.** Sections 301 through 319 and 415 of this
20 act constitute a new chapter in Title 70A RCW.

--- END ---